COMMITTEE REPORT NO. 10 - 12 (3) TABLED ON FEB 18 1993

Northwest Territories Legislative Assembly/ᓄᓇᑦᓯᐊᕐᒥ ᒪᓕᒐᓕᐅᖅᑎᑦ
Standing Committee on Finance
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STANDING COMMITTEE ON FINANCE REPORT ON TABLED DOCUMENT 21-12(3): PAYROLL TAX ACT

Twelfth Assembly
Third Session

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February, 1993

THE HONOURABLE MICHAEL BALLANTYNE, M.L.A.,
SPEAKER OF THE LEGISLATIVE ASSEMBLY.

In accordance with its Terms of Reference, the Standing Committee on Finance is pleased to submit its report on the review of Tabled Document 21-12(3): Payroll Tax Act.

Antoine

Jim Antoine, M.L.A.
Chairperson.

Yellowknife, Northwest Territories Canada X1A 2L9/Fax (403) 920-4735/Telephone (403) 873-7999
ᔭᓗᓇᐃᑉ, ᓄᓇᑦᓯᐊᖅ, ᑲᓇᑕᒥ X1A 2L9 ᑐᐊᐱᖅᑐᐃᑦ ᑎᑎᖅᑲᖅ (403) 920-4735/ᐅᖄᓚᐅᑖ (403) 873-7999

STANDING COMMITTEE ON FINANCE

Report on Tabled Document 21-12(3): Payroll Tax Act

February 1993

Members:

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Mr. Henry Zoe, M.L.A.

Alternates:

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Mr. Sam Gargan, M.L.A.
Mr. John Ningark, M.L.A.

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Mr. Ernie Bernhardt

Staff:

Mr. Doug Schauerte, Committee Clerk
Mr. Robert Stewart, Committee Researcher
Ms. Joan Irwin, Committee Researcher

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STANDING COMMITTEE ON FINANCE - CONCLUSION

The Standing Committee on Finance has completed its critical review of *Tabled Document 21-12(3) - PAYROLL TAX ACT*. The Committee cannot support this draft bill in its present form.

PURPOSE OF THE REVIEW

The Standing Committee on Finance met in Yellowknife on five occasions to consider the proposed Payroll Tax. The Committee consulted with the Minister of Finance and reviewed written submissions from the public who were invited to provide input.

The Committee also employed the services of a taxation specialist, Mr. William P. Daye, C.A., to undertake a detailed review of the draft legislation with the Department of Finance. Mr. Daye's report, which we generally endorse, is attached in Appendix 1.

The purpose of reviewing the proposed Payroll Tax was:

* To determine and assess the policy objectives of the department;

* To ascertain whether the proposed tax would meet policy objectives; and

* To determine whether, in the context of total revenue and expenditures, the proposal presented was realistic and allowed the Government to fulfil their mandate.

THE OBJECTIVES OF THE TAX

The payroll tax has two interrelated objectives:

1) to raise revenues to help reduce the deficit and provide funding for government programs; and

2) to obtain tax revenues from individuals who work in the Northwest Territories but who do not pay income tax here.

TAXING TEMPORARY AND NON-RESIDENT WORKERS

The Minister indicated that after years of study the Payroll Tax system was determined to be the only feasible method to meet the objective of taxing temporary and non-resident workers. All other approaches that the Department investigated would run afoul of the mobility provision in the Canadian Charter of Rights and Freedoms in that they could be deemed to discriminate among persons primarily on the basis of place of residence.

The Committee, and the majority of the public submissions received, support the underlying principle. **However**, the Committee has a number of concerns regarding the means of implementing this tax. These concerns have been conveyed to the Minister:

- the tax would impact more than just the target population - for example, many northerners would be required to pay the tax and would not be eligible to receive a tax credit;
- taxpayers in similar situations will have dissimilar tax positions - for example, a bank inspector travelling to Yellowknife would have a tax imposed upon him that his colleague travelling to Whitehorse would not;
- certain individuals resident in the Northwest Territories and not subject to Income Tax will be subject to Payroll Tax - an example would be Priests and Nuns who have taken a vow of perpetual poverty;
- the tax credit would provide relief to some but this relief would not be as visible as the initial tax levy; and
- there are a lot of technical issues that may prove to be problematic, for the employer, employee and government, such as:
    - the mis-matching of payroll tax and cost of living tax credit - for example, a self employed individual would be entitled to the tax credit even though he would not have paid the payroll tax; and
    - the calculation of employee remuneration subject to the payroll tax may be difficult particularly in the case of fly-in, fly-out employees.

There has been, and will continue to be, a very negative reaction among northerners because **the method proposed for implementing this tax is flawed.**

NOT A MAJOR SOURCE OF REVENUE

By the time the proposed tax changes are fully implemented in 1995-96, it is projected that annual net revenues of approximately $1.6 million will be generated. Approximately 14% of the net revenue will be absorbed by the administration costs. These administration costs do not include the costs which will be borne by employers to collect, remit and comply with the proposed Payroll Tax Act. The employer's cost is a hidden cost but it has the potential to be quite significant.

A taxing statute with a very narrow focus, such as the Payroll Tax, must be relatively simple and straight-forward to administer. This is particularly true for one which is expected to generate such a small amount of revenue. The administrative complexity will likely result in an erosion of taxpayer respect and compliance. It is anticipated that the administration, enforcement and collection difficulties will increase at a rate disproportionate to the revenues being generated. As a means of raising revenue, **the Payroll Tax is too complex in relation to its revenue potential.**

The Minister of Finance warned the Committee that withdrawal of the proposal currently before the Committee would necessitate compensating increases in other taxes such as corporate or personal income tax. However, it is this Committee's view that there are alternatives. For example, the loss of projected revenue resulting from withdrawal of this proposal could be offset by expenditure reductions of $1.6 million, an amount which represents a small fraction of the total territorial budget.

The Committee wishes to point out that the Minister of Finance is relying on a projected revenue of $8,000,000 from the Payroll Tax to balance the 1993-94 budget. It is misleading to use this projected revenue to balance the 1993-94 budget without showing the offsetting tax credit expenditures which would occur in the following fiscal year. While the introduction of the Payroll Tax will have a significant impact on the cash flow in the first fiscal year, the real net effects are far less significant. If the government is unable to introduce the Payroll Tax on July 1, 1993 as originally intended, the budget may suffer an apparent $8,000,000 reduction in revenue. However, the real net effect will be a reduction of only approximately $1,200,000.

ALTERNATE METHOD IDENTIFIED

While the Committee has a duty to critically review money bills, we also have a duty to offer constructive suggestions or recommendations. In this regard, the Committee provided the Minister of Finance with the many concerns raised and some suggestions for resolution.

Specifically, we suggested that the Minister consider replacing the "employee" based payroll tax with an "employer" based tax which would be levied in respect of all permanent establishments located in the Northwest Territories. All remuneration paid from or through a permanent establishment (including construction sites) of an employer in the Northwest Territories would be taxed. In addition, we suggested a "notch" provision which would eliminate many small employers from the tax base and thus minimize some of the complexities involved in the administration of the tax. We also suggested that financial incentives be offered to those companies that hired locally.

However, the Minister does not appear to see the merit in our suggestions nor seem as concerned as the Committee by the potential difficulties identified by our research.

OUR CONCLUSION

The Standing Committee on Finance has conducted a critical review of the proposed Payroll Tax Act. The Committee supports the principle and objective of this policy initiative. However, our review has raised a number of concerns, many of which are related to the means of implementing this tax. We have developed a number of suggestions for resolving our concerns. However, the Minister of Finance does not appear to see the merit in our suggestions nor be too concerned about the potential difficulties we have identified in our review. As a result, the Standing Committee on Finance **cannot recommend passage of the Payroll Tax Act in its present form**.

We would like to take this opportunity to thank the individuals and organizations who took the time to submit their comments to us. The Committee heard what you had to say and felt that, under the circumstances, a public hearing was not necessary at this time. We feel that public consultation on such an important issue as this is critical and recommend it to the government in the future.

W.P. DAYE PROFESSIONAL CORPORATION
CHARTERED ACCOUNTANT

650 METROPOLITAN PLACE • 10303 JASPER AVENUE
EDMONTON, ALTA. T5J 3N6

TEL: (403) 424-8833
FAX: (403) 429-9997

REPORT
TO THE STANDING COMMITTEE ON FINANCE
NORTHWEST TERRITORIES
LEGISLATIVE ASSEMBLY

A REVIEW OF THE PROPOSED PAYROLL TAX ACT

W.P. Daye
January 20, 1993

OUTLINE

1. Background

2. Tax Policy Objectives

3. Comments on the Proposed Legislation

4. Conclusions

5. Recommendations

BACKGROUND

In late 1992 the Minister of Finance introduced Bill 8, the "Payroll Tax Act", to the Legislative Assembly of the Northwest Territories which in turn has referred Bill 8 to its Standing Committee on Finance for further study and review. As part of that latter process I have been asked to review Bill 8 and provide my comments on the proposed new Payroll Tax Act.

The proposed Payroll Tax Act is intended to levy a tax on employees equal to 1% of their gross remuneration earned in the Northwest Territories.

An additional tax change which has been proposed, but which is not part of Bill 8, is the introduction of a "Cost of Living Tax Credit" which will be available to all individuals resident in the Northwest Territories on December 31st of each year. This credit will be calculated as a percentage of "net income" for tax purposes to a maximum of $645 per year. Being based on "net income" rather than "employment income" all December 31st residents will be eligible for the credit irrespective of their sources of income and regardless of whether or not they were subject to the proposed Payroll Tax.

While the proposed Payroll Tax and proposed Cost of Living Tax Credit are separate tax proposals they are part of the "package" proposed by the Minister of Finance.

TAX POLICY OBJECTIVES

In my view any taxing legislation should have the following objectives:

1. *Revenue generation*

   The purpose of any tax statute is to raise tax revenues from certain sources targeted in that legislation for the purpose of funding the programs and operations of the government imposing the tax.

2. *Social/wealth redistribution/objective*

   Some, but not by any means all, taxing statutes have as an objective the redistribution of wealth to achieve some specific social objective. Examples of such tax provisions would include:

- additional personal tax credits for the elderly
- additional personal tax credits in respect of physically or mentally dependent adults
- additional deductions for Northern residents
- GST tax credits
- family allowance program
- deduction of certain child care expenses
- repayment of certain social benefits (such as Unemployment Insurance or Old Age Security) for certain higher income individuals.

One of the stated objectives of the proposed Payroll Tax Act, "to obtain tax revenues from individuals who work in the Northwest Territories but who do not pay income tax there" is another example of a policy objective which falls into this category.

3. *Equity*

A taxing statute should strive to maintain equity among taxpayers so that taxpayers in similar circumstances have similar tax positions.

Another form of tax equity which is generally accepted in Canada is that of "progressive taxation", i.e. taxes should be levied according to "ability to pay" so that higher income individuals are taxed more heavily than lower income individuals.

4. *Simplicity*

Any who have worked with our Income Tax Act or Excise Tax Act may suggest that we have long ago abandoned the goal of simplicity. I would respond to that suggestion by pointing out that the Income Tax Act and Excise Tax Act raise tens of billions of dollars of tax revenue so additional complexities are inevitable because of the broad scope of those statutes. However, a taxing statute with a very narrow focus, designed to raise a very small amount of tax must be relatively simple and straight-forward; otherwise, taxpayer respect and compliance will erode and the administration, enforcement and collection difficulties will increase at a rate disproportionate to the revenues being generated.

5. *Taxpayer acceptability*

It is difficult to imagine such a thing as a "popular tax" but I would include it under this broad objective of "taxpayer acceptability".

- respect for the system

  In Canada we have a self-assessing tax system where the bulk of the compliance burden rests with the taxpayers. A tax system or statute which presents compliance difficulties disproportionate to the tax base will foster a lack of respect and an erosion in the degree of compliance.

- visibility

  Any taxes paid by taxpayers, such as employees, are highly visible. Any benefit to be provided by way of a tax credit, deduction, etc. should be equally visible if it is to neutralize the impact of any related tax payment.

COMMENTS ON PROPOSED LEGISLATION

I have reviewed Bill 8, the comparable payroll tax statutes for the Provinces of Manitoba and Ontario, the various materials prepared by the Department of Finance, and discussed the proposed legislation with various officials of the Department of Finance. Based on the foregoing activities and my 20+ years of tax specialization I offer the following observations:

a. *Net revenue generation*

By the time the proposed tax changes are fully implemented in 1995 - 96 it is projected that annual net revenues of approximately $1.6 million will be generated, as summarized below:

Payroll tax - estimated revenues		$ 11,900,000
Less: Cost of living tax credit		10,000,000
Net tax revenue		1,900,000
Less: Administrative costs:		
NWT - Payroll tax	222,000	
Federal - Tax Credit administration	43,000	
	265,000	265,000
Estimated net revenue generation		$ 1,635,000

Expressed another way, approximately 14% of the net revenue will be absorbed by the administration costs. These administration costs represent only the government's costs and do not include the costs which will be borne by the government's agents (i.e. the employers) to collect, remit and comply with the proposed Payroll Tax Act.

The employer's cost is a hidden cost but it has the potential to be quite significant. As explained in greater detail below, the proposed legislation, as currently drafted, contains some technical problems which are likely to result in much greater compliance costs than have been estimated. These technical difficulties may manifest themselves in two ways:

- a higher incidence of non-compliance (intentional or otherwise); and
- higher costs borne by the employers to install systems to capture the information necessary to comply with the statute.

It has been suggested that the information needed by employers to comply with the Payroll Tax Act already exists so that such employers will have very nominal compliance costs. I would suggest that for most employers who do not have a permanent establishment in the Northwest Territories the information is not now available and expensive systems will need to be developed and installed in order to capture that information. Also, all employers having computerized payroll systems will now have to incur programming costs to modify their computer programs to provide for the additional deduction from employees' paycheques.

b . *Taxpayer perception*

A number of factors are likely to contribute to employees' reaction to the Payroll Tax:

- employees will see an additional deduction on their paycheque which is likely to promote a negative reaction. Unlike a change in income tax rates, where any additional tax costs are buried within an existing payroll deduction, the new payroll tax will be highly visible.
- employees who are not residents of the Northwest Territories, and who are not attached to a permanent establishment in the Northwest Territories (such as visiting Federal government officials, salesmen, bankers, and consul-

tants) will suddenly find an additional deduction from their paycheques. Their reaction is likely to be negative.

- taxpayers in similar situations will have dissimilar tax positions. For example, a bank inspector travelling to Yellowknife will have a tax imposed upon him that his colleague travelling to Whitehorse does not. An employee of a consulting firm working on a consulting project in Yellowknife will be subject to the Payroll Tax whereas the partner of the consulting firm he is working alongside will not be subject to the tax.

- certain individuals resident in the Northwest Territories and not subject to Income Tax will be subject to Payroll Tax. An example would be Priests and Nuns who have taken a vow of perpetual poverty. The net result will be an indirect tax on their churches/orders. Similarly, Ministers and Pastors who receive certain housing allowances will be subject to Payroll Tax even though such housing allowances are not subject to Income Tax.

- the Cost of Living Tax Credit will provide some tax relief but this relief will not be as visible as the initial Payroll Tax levy. The Tax Credit will simply be one more item on the individual taxpayer's tax return along with all of his other tax credits, source deductions, etc. Thus, the benefit of the proposed Cost of Living Tax Credit may get "lost" in the eyes of the taxpayer.

c. *Mis-matching of Payroll Tax and Cost of Living Tax Credit*

When looking at the combined effect of the proposed Payroll Tax and Cost of Living Tax Credit it is clear that the targeted tax base is that employment income which is earned in the Northwest Territories but which generates no income tax revenues for the Northwest Territories because the individuals are not resident in the Northwest Territories. The following statements by the Minister of Finance confirm this objective:

- "A proposed tax credit would reduce the impact on residents of the Northwest Territories."
- "Individuals who work here but do not pay income tax here would not receive the credit."

There is, however, limited correlation between the two sets of proposals with the net result that there is a mis-matching of the tax levy on the one hand and the tax credit on the other. The following examples illustrate this point:

- an individual having only business income (such as a self-employed individual) would be entitled to the Cost of Living Tax Credit even though he would not have paid the Payroll Tax.
- an individual having only investment income or capital gains would be entitled to the Cost of Living Tax Credit even though he would not have paid the Payroll Tax.
- an individual taking up residence in the Northwest Territories at the end of December would receive the Cost of Living Tax Credit even though he would have paid little or no Payroll Tax during the year. On the other hand, his colleague who ceases to be a resident of the Northwest Territories near the end of December would have paid the Payroll Tax throughout the year on his employment income but would not be entitled to any portion of the Cost of Living Tax Credit.

From a policy standpoint this mis-matching may be acceptable.

d. *Technical issues related to the determination of "remuneration"*

"Remuneration" is defined to include all amounts included in employment income under the provisions of subsection 5(1) and sections 6 and 7 of the Income Tax Act. For those employees not attached to a "permanent establishment" in the Northwest Territories there will be a host of problems which will be difficult to resolve, all of which will add to the cost of administering, enforcing and collecting the Payroll Tax. Employers will also encounter difficulties and costs as they attempt to resolve these same issues. Following are a few examples of the difficulties that will be encountered:

Situation #1

Facts: A Federal Government employee is based in Ottawa. During the course of the calendar year he makes one 3-day visit to Yellowknife as part of his normal employment activity.

How is the amount of remuneration subject to Payroll Tax to be determined?

There are several possible approaches:

1. If there are 21 working days in the month of the employee's visit to Yellowknife, a pro-ration of salary and benefits on a 3:21 basis might be considered.

2. If the employee is entitled to 10 statutory holidays, 20 days of annual vacation and 5 days of sick leave it may be appropriate to base the calculation of remuneration subject to Payroll Tax on "annual available working days" using a 3:226 calculation.

3. If the employee receives a salary increase during the year should the calculations be based on total annual remuneration or the salary in effect at the time of his visit to Yellowknife?

Situation #2

Facts: A commissioned salesman employed by a heavy-equipment dealer in Edmonton visits the Northwest Territories in June of each year and calls on various customers. The salesman receives no base salary, receives a commission equal to 4% of his sales, and receives a bonus based on total company profits not to exceed 25% of his commission income. The salesman is responsible for all of his own travelling and entertainment expenses but is provided with a company automobile which results in a taxable benefit of $6,000 per annum.

How is the amount of remuneration subject to Payroll Tax to be determined?

1. If the salesman flies to Yellowknife and rents a car rather than drive the employer-provided automobile, is the taxable benefit related to the automobile to be included in "remuneration" even though he did not use it in the Northwest Territories?

2. If the salesman consummated no sales during his trip to the Northwest Territories, does this mean there is no remuneration subject to Payroll Tax?

3. If all of the salesman's sales are made from his Edmonton office does this mean there is no remuneration subject to Payroll Tax?

4. If the salesman spends 10 days working on a large equipment sale with a Northwest Territories customer, of which eight days are spent in Edmonton and two days are spent in Yellowknife meeting with the customer, what portion of the commission is attributable to the Northwest Territories and subject to Payroll Tax? Is the determination based on days spent, location of the customer, or location of the salesman when sales are consummated?

5. If the salesman spends 5% of his working days in the Northwest Territories but generates 25% of his commission income from customers based in the Northwest Territories, what is the basis for determining the amount of his remuneration subject to Payroll Tax?

6. If the salesman earns a year-end bonus as a result of his employer having had a profitable year, what is the basis for determining the amount of such bonus subject to Payroll Tax?

Situation #3

Facts: A sales manager for a Calgary-based company decides he wants to entertain several of his best customers by hosting them for a week of fishing at a fly-in fish camp located in the Northwest Territories.

What portion of the sales manager's remuneration is subject to Payroll Tax?

Technically, the sales manager is "working" in the Northwest Territories while he entertains his customers. This type of situation, which falls within the charging sections of Bill 8, will result in the sales manager being taxable under the Payroll Tax Act but it would seem that this type of situation is outside the intended scope of the proposed tax.

Situation #4

Facts: Employees working in various transportation activities (airline flight crews, truck drivers, etc.) will be in and out of the Northwest Territories at various times during the year.

How will the amount of their remuneration subject to Payroll Tax be determined?

- by reference to number of miles travelled?

- be reference to number of days or part days spent in the Northwest Territories?

Situation #5

Facts: Some employed individuals not currently subject to tax under the Income Tax Act (such as Priests and Nuns who have taken a vow of perpetual poverty) will be subject to the tax under the proposed Payroll Tax Act.

Employed individuals who have taken a vow of perpetual poverty are not subject to income tax on their employment income because they are entitled, when computing taxable income, to deduct the income which is donated to their church, thereby off-setting the amount of employment income included under section 6 of the Income Tax Act. The proposed Payroll Tax Act will levy tax based on the amount of remuneration determined under section 6 of the Income Tax Act without regard to any deductions permitted under that latter Act in computing taxable income. The net result will be that priests and nuns who have taken a vow of perpetual poverty will be subject to Payroll Tax.

Situation #6

Facts: Ministers/Pastors receiving accommodation or a housing allowance are not taxable on such benefits under the Income Tax Act but will have those housing benefits subjected to tax under the proposed Payroll Tax Act.

Housing allowances received by Ministers/Pastors are included in "remuneration" under section 6 of the Income Tax Act. However, in computing "net employment income" such allowances can be deducted under section 8 of the Income Tax Act resulting in no net income subject to tax under the Income Tax Act. As no similar deduction is provided under the Payroll Tax Act, these housing allowances will be subject to Payroll Tax.

e. *Other technical issues*

i. Definitional matters

The definition of "person" in section 1 makes no reference to "trust" or "joint venture". As both trusts and joint ventures can carry on business it may be necessary to expand the definition.

"Employer" is defined to mean "a person or a government, including the government of a province, territory or Canada . . .". As Provincial, Territorial and Federal governments are specifically included in the definition and "Government" is later defined to mean the "Government of the Northwest Territories" it may be open to argument that "municipalities" are not included in the definition of "employer" and accordingly the employees of municipalities in the Northwest Territories are not subject to the provisions of the proposed Payroll Tax Act.

ii. Assessment/appeal related matters

The "taxpayer" under the proposed Payroll Tax Act will be the "employee". However, the entire administration, collection, enforcement system will focus on the "employer". While the administrative system will be designed to cope with approximately 2,700 employers there may be as many as 40,000 "taxpayers" having assessment and appeal rights under the Act. It is unlikely that a large percentage of the taxpayers might launch appeals but the possibility does exist.

Normally, it is the "taxpayer" who would receive "notices of assessment" under a taxing statute. This enables the taxpayer to agree or disagree with the amount of tax which has been assessed. Under the proposed Payroll Tax Act there is no provision to provide the "taxpayer" with a copy of the Notice of Assessment. The only way a taxpayer (being an employee) would receive a copy of a notice of assessment would be if his employer should provide him with a copy of such notice and only then could the taxpayer be in a position to challenge his assessment.

With the employer receiving a "blanket" notice of assessment covering the total remuneration paid to all of his employees it will be very difficult for an individual employee to determine what portion of the assessment relates to his personal "situation". This effectively makes the employee assessment/appeal system unworkable even though as the "taxpayer" he should have assessment and appeal rights.

Subsection 32(2) provides an employee with an opportunity to object to a notice of assessment. Such an objection must be launched within ". . . 90 days after the earlier of the day on which a copy of the notice of assessment is provided to the employee and the day on which the employee becomes aware as to how he or she is affected by the assessment . . ." As the notice of assessment is provided to the employer, it is possible that it could be several years before an employer provides a copy of the notice of assessment to the employee/taxpayer which would start his 90 day objection period under subsection 32(2). The possibility of such extended "open" years is a situation unacceptable to tax collector and taxpayer alike.

Subsection 29(1) of the proposed Payroll Tax Act provides that "The Minister may assess any employer in respect of tax, interest or penalties under this Act . . .". However, section 3, which is the charging section, clearly states that it is the "employee" who is "liable to pay to the Government a tax". The only role imposed upon the employer is that of collector and remitter of the tax and a filer of certain information returns. In the event the employer fails to discharge his collection and remittance duties in accordance with the provisions of the Act he can be subjected to certain penalties and interest charges (sections 11 and 12). No where, however, does the Act impose the tax upon the "employer" (which it should not because it is the "employee" not the "employer" who is the taxpayer under the Act as is clearly stated in the changing provisions of section 3). With this in mind, it would appear that the proposal to assess tax against the employer is inappropriate under section 29(1) as the employer is only responsible to remit tax he has collected or pay any penalties or interest charges levied against him. He cannot be assessed tax in respect of taxes he has not collected because he is not liable for tax under the scheme of the Act (as employees not employers are the taxpayers under the Payroll Tax Act).

It may be suggested that the assessment scheme proposed under the proposed Payroll Tax Act is appropriate as it is similar to the approach used under other taxing statutes such as the Excise Tax Act (i.e. GST). I do not concur with this view for the following reasons:

1. Under the GST system it may appear that the "purchaser" is the taxpayer because he pays GST on his purchases. However, through the registration system imposed under the Excise Tax Act the registrant is the person liable for tax and effectively becomes the "taxpayer" for collection, remittance, assessment and appeal purposes.

2. A better analogy to the scheme proposed under the Payroll Tax Act is that imposed under the Income Tax Act with respect to the withholding of tax from remuneration paid to employees.

   Under the Income Tax Act every employer is required to withhold certain amounts of Income Tax from remuneration paid to his employees. Failure to withhold such taxes can result in the imposition of certain penalties and/or interest charges against an employer. However, the employer is not the "taxpayer" with respect to such withholding tax; clearly, it is the employee who is the taxpayer and who is responsible to pay the tax in the event the correct amount was not withheld and remitted by his employer. As such the employee/taxpayer has access to the usual assessment and appeal procedures.

CONCLUSIONS

1. I believe the administration and enforcement will be more difficult and more expensive than has been suggested. If the focus of the proposed Payroll Tax is on employees resident in the Northwest Territories and on non-resident employees employed by permanent establishments located in the Northwest Territories the administration costs and difficulties may well be as projected. However, if the focus is to include those non-resident employees not attached to permanent establishments in the Northwest Territories the administration costs are likely to be considerably higher as many of the technical issues involved in the determination of "remuneration" will involve this group of employees.

2. Many of the potential interpretation issues will need to be resolved by exercising administrative discretion. If this type of action is required to make the proposed system work in some acceptable fashion, it may be prudent to eliminate some of those potential problems at the outset.

   Also, the more arbitrary administrative discretion required to administer the law, the greater the opportunities for inconsistency in the application and administration of that law.

3. Employers not having permanent establishments in the Northwest Territories will incur significant costs to comply with the proposed law. Much of the information needed to comply with the proposed legislation does not now exist and will have to

have to be developed. This will require the development and installation of new systems and procedures (for some employers these may be very simple changes, for others they will be more extensive) and payroll system changes including possible computer programming. Additional costs will be incurred to complete and file the necessary information returns.

4. It has been suggested that the proposed Payroll Tax may provide some employees (both residents and non-residents) with an incentive to change their employment arrangements to independent contract arrangements. However, when employees consider the loss of potential UI benefits and the doubling-up of their CPP costs it would seem unlikely that many employment arrangements would be altered solely to avoid the Payroll Tax.

5. The net revenues generated from the imposition of the Payroll Tax and the granting of the Cost of Living Tax Credit are not very significant particularly if potential employer compliance costs and potential adverse taxpayer reactions are considered.

6. The proposed assessment and appeal mechanisms are inadequate as they do not provide the taxpayer, being the employee, with adequate notices and because too many potential "open" tax years will result.

   The number of employees who will be subject to the proposed Payroll Tax is not known but it has been suggested that it may be as high as 40,000 (being approximately 25,000 employees resident in the Northwest Territories and approximately 15,000 non-resident employees). If the assessment and appeal procedures are changed to provide those employees with adequate assessment information, the administration and enforcement costs will be significantly higher than have been projected.

7. Bill 8 would appear to contain some technical deficiencies which should be addressed. Some of the definitions may need to be expanded and some of the assessment and appeal provisions need to be reviewed.

8. From an overall tax policy objective the proposed Payroll Tax Act and the related Cost of Living Tax Credit appear to have some shortcomings:

   - for non-resident employees not attached to a permanent establishment in the Northwest Territories the potential interpretation, administration and enforcement difficulties are disproportionate to the amount of tax revenues to be generated from such sources.

- taxpayers having very similar circumstances can have quite different tax positions (e.g. visiting consultant, employed vs. self-employed).

- one intention of the proposed Payroll Tax Act is to generate some tax revenues from those non-resident employees who earn their employment income in the Northwest Territories, and thereby utilize some of the services provided by the Territorial Government but do not generate any tax revenue because they are resident in other tax jurisdictions. It would appear, however, that the tax "net" will extend beyond this target group by including non-resident employees (possibly as many as 15,000), not attached to permanent establishments in the Northwest Territories.

- the payroll tax will be very visible to employees but the Cost of Living Tax Credit will be less visible. This could result in the Government of the Northwest Territories being assigned the "blame" for the new tax but receiving none of the kudos for the new tax credit.

RECOMMENDATIONS

1. I would recommend replacing the "employee" based payroll tax with an "employer" based tax which would be levied in respect of all permanent establishments located in the Northwest Territories and all remuneration paid from or through a permanent establishment (including construction sites) of an employer in the Northwest Territories. In addition, I would recommend a "notch" provision which would eliminate many small employers (say those paying total annual remuneration of less than $150,000) from the tax base.

   I believe an "employer" based tax would have the following advantages over an "employee" based tax:

   - the number of taxpayers will be reduced from a number which may be as high as 40,000 to perhaps a few hundred.

   - the potential negative reaction from voters will be greatly reduced as a potential 25,000 voters would not have their paycheques reduced.

- the administrative and enforcement costs and difficulties will be greatly reduced as the number of taxpayers will be greatly reduced and most of the technical difficulties related to the determination of remuneration will be eliminated.
- the problems of employees who were probably not intended to be taxpayers under the Payroll Tax Act (e.g. Priests, Nuns, visitors entertaining customers at fishing camps, etc.) will be resolved.

One criticism of this recommendation if likely to be that there is a shifting of tax burden from employee to employer, which is correct, in part. I would counter that criticism by making the following observations:

- the administrative burden imposed upon the total employer population is reduced, although the savings will be far greater for employers not having permanent establishments in the Northwest Territories than for those having permanent establishments in the Northwest Territories.
- the employers also exploit the resources and utilize the services provided by the Territorial Government.
- some portion of the cost will likely be passed along to employees through the wage bargaining process as employers will be able to argue that their costs have increased as a result of the tax and their employees have effectively received a "pay increase" through the Cost of Living Tax Credit.
- employers are unlikely to be happy about paying higher taxes but are likely to regard it as part of their cost of doing business which increases annually in any event as a result of inflation and other factors. The Payroll Tax would be a small part of their total cost structure.
- employer based tax regimes exist in several provinces so there would be nothing "new" about this type of system.

2. If the above recommendation is not accepted, I would recommend, in the alternative, a restriction in the scope of the "employee" based tax to those employees attached to permanent establishments (including construction sites) located in the Northwest Territories. This would have the effect of generating tax revenues from those employees who work in the Northwest Territories but reside in other taxing jurisdictions. This would have the effect of eliminating many of the administration,

enforcement and compliance difficulties that will be encountered with respect to those non-resident employees (i.e. the "in and out" type individuals, commissioned salesmen, etc.).

The difficulty that would remain under this type of system is that there could be in excess of 25,000 taxpayers to be dealt with versus a few hundred to be dealt with under an "employer" based payroll tax regime.

3. At the very least, some of the apparent technical deficiencies in the Bill need to be resolved.

Payroll Tax Act - Public Submissions

1. N.W.T. Chamber of Commerce
2. City of Yellowknife
3. Institute of Chartered Accountants
4. Fitz/Smith Native Development Corporation
5. Hay River Mechanical
6. Yellowknife Chamber of Commerce
7. N.W.T. Construction Association
8. Federation of Labour
9. N.W.T. Association of Municipalities
10. Canadian Broadcasting Corporation
11. Arctic Ventures Ltd.
12. Canadian Federation of Independent Business
13. Union of Northern Workers
14. Consulting Engineers of the N.W.T.
15. Certified General Accountants Association of the N.W.T.
16. Town of Norman Wells
17. Iqaluit Chamber of Commerce

NWT
CHAMBER OF COMMERCE

January 19, 1993

Mr. Jim Antoine
Chairperson
Standing Committee on Finance
Legislative Assembly of the Northwest Territories
YELLOWKNIFE, NT X1A 2L9

Dear Mr. Antoine:

re: Proposed Payroll Tax Act

Thank you for your recent letter inviting the Chamber to offer a written submission on the proposed Payroll Tax Act.

In order to prepare our comments for you, our Chamber formed an ad hoc committee to review the Act, polled our members across the Territories for their comments and reactions and met with officials of the Department of Finance who were very helpful in assisting us to better understand some of the finer points within the Act and the context in which this Act is presented.

The membership of the Northwest Territories Chamber of Commerce is made up of all local and regional Chambers of Commerce, with the exception of those in the Keewatin who decline our invitations for membership, and a number of associate members who are principally larger corporations who have an interest in the general business climate of the Northwest Territories.

THE MEMBERS OF OUR CHAMBER RECOMMEND THAT THE GOVERNMENT NOT PROCEED WITH THE IMPLEMENTATION OF THE PROPOSED PAYROLL TAX ACT FOR THE FOLLOWING REASONS:

1. REDUCE EXPENDITURES, DO NOT RAISE TAXES - The business community is pressed to find that there is such a thing as an acceptable tax. In managing it's financial house, the government should be looking to expenditure reductions not increases in taxes. The government should develop business stimulation programs, not taxation, to increase revenues.

2. ADMINISTRATIVE COST BURDEN TO SMALL BUSINESS - A strong, practical objection of our members to the introduction of this tax is the administrative burden it will cause at a time when many are struggling to maintain their financial viability. A tax introduction is generally more manageable in times of economic growth and profitability rather than during a recession when businesses must concentrate their energies on maintaining revenues and cutting costs. Businesses should not be asked to accept this administrative task and attendant cost at this time.

3. LACK OF ACCOUNTING PROCEDURES - Many computer programs, in particular Simply Accounting (Bedford), a program commonly used by small business in the Northwest Territories, do not have the capability for the integration of a percentage deduction from an employee's paycheck. While these programs are commonly adjusted for new government taxation initiatives, we have no knowledge that this will be contemplated for an N.W.T. tax. For manual payrolls, all government required deductions are supplied to the employer by means of tables. We are not aware that these tables will be provided for this deduction.

4. NO MENTION OF TAX CREDIT - The Payroll Tax Act makes no mention of the proposed Cost of Living Tax Credit. Therefore, on the face of it, the Payroll Tax adds an additional 1% burden to employees in the N.W.T. in addition to the 1% recently imposed through Personal Income Tax. However, if we believe that the Payroll Tax Act would not be implemented without the Cost of Living Tax Credit, then we understand that for most employees of small business they will in fact enjoy a net gain. The Payroll Tax by itself however is unacceptable.

5. MULTI LOCATION STAFF - There will an administrative headache for those companies who have staff who routinely work in different jurisdictions. A construction company, for instance, will be expected to keep track of how much time the Edmonton supervisor spends in the Northwest Territories and make the required pro rata payroll tax deduction.

6. MINIMAL GNWT REVENUES - We understand that anticipated revenues under the Payroll Tax, when it is fully implemented will be approximately $12 million annually and that the cost of the Cost of Living Tax Credit, when fully implemented, will be approximately $10 million annually. These two initiatives will therefore generate a maximum net annual revenue to the Government of the Northwest Territories of approximately $2 million. The Government is asking the business community to incur the cost and time of collecting and administering the tax for the gain of a maximum of $2 million. We think that this is an unwarranted request to make.

7. INFORMATION - There has been no information dissemination about this proposed Tax. We have three sources of information:
    a. Mention of the plan to introduce the payroll tax in the Budget speech delivered September 10, 1992.
    b. The tabling of the proposed payroll tax legislation in the Legislature during the November, 1992 session.
    c. A meeting with members of our ad hoc Payroll Tax committee and Finance Department officials on January 15, 1993. Receipt, at that meeting, of a summary sheet entitled **PROPOSED NORTHWEST TERRITORIES PAYROLL TAX.**

    The business community - the proposed tax collector agency - is "in the dark" about what the tax is all about, how it is proposed to be implemented, what the financial reporting requirements will be, etc.

The Chamber recognizes that the Government is faced with task of generating revenues. Taxation is an avenue normally explored. Our ad hoc committee members have gained a rudimentary understanding of the challenge the Government faces in generating revenues and the resultant impact on the financial arrangements with the Federal Government. We understand there is a "perversity factor" in effect wherein for every dollar ($1.00) the Territorial Government generates, a dollar and twenty-five cents ($1.25) is lost from federal grant.

The members of the N.W.T. Chamber of Commerce work towards economic development and expansion in the Northwest Territories and encourage the influx of investment dollars. However, we can see that this objective comes at a premium price if revenues generated cause a net loss in the federal subsidy. The Chamber finds this existing arrangement to be an impediment to N.W.T. development and would encourage the Federal government to revisit this stipulation as it currently serves as a disincentive to economic growth and self reliance for the N.W.T..

The Chamber also understands that one of the prime objectives of this Payroll Tax initiative is to capture some of the employment income dollars that are earned from the resources of the Northwest Territories but which are not then available for reinvestment in the Territories. It has been long recognized that efforts must be made to keep some of this income in the Territories and to that extent the Chamber is supportive of the Government's intent.

SHOULD THE GOVERNMENT OF THE NORTHWEST TERRITORIES PROCEED WITH THE IMPLEMENTATION OF THE PAYROLL TAX ACT, THE CHAMBER REQUIRES, AS A MINIMUM, THE FOLLOWING CONDITIONS:

1. COST OF LIVING TAX CREDIT - The Payroll Tax can only proceed along with the Cost of Living Tax Credit proposal. We understand that with the two programs in place, a resident of the Northwest Territories who files an income tax return and who earns less than approximately $60,000 employment income per year will in fact enjoy a better net financial position than she/he does at present. Without the Cost of Living Tax Credit, however, employees will be subjected to the double deduction of the 1% payroll tax on top of the 1% personal income tax increase this year which is just not acceptable.

2. REVENUES TO ECONOMIC DEVELOPMENT - The net revenues produced must go towards stimulation of the economic sector and economic development programs. The development of financial self reliance must be the long term goal of the Government of the Northwest Territories. Earmarking these revenues to this goal will appease businesspeople somewhat through the merits of the investment in the long term economic future of the Northwest Territories.

3. COST OF COLLECTION PAYMENT - There must be, concurrent with implementation of the Payroll Tax, a payment to small business to offset the administrative costs of collecting the tax. Businesses are simply not in a position to absorb further government mandated costs.

4. REGULATIONS - The business community must be part of the process in developing the regulations pursuant to the Act prior to their adoption by Government. Business is too often put in the position of being asked to implement an unknown entity. The government expects the business community to be their tax collector, and therefore must work with business in the development of the process.

5. TIME - There must be enough lead time and sufficient information for business to be well informed and well equipped to smoothly accept the tax collection function.

We ask members of the Committee to consider that we offer these comments based on the information made available to us. We are not in a position to fully understand and therefore comment meaningfully upon the full impact of the proposed legislation. It may be that with further information or clarification, our comments may be altered.

IN SUMMARY, IT IS THE POSITION OF THE MEMBERS OF THE NORTHWEST TERRITORIES CHAMBER OF COMMERCE THAT THE PROPOSED PAYROLL TAX SHOULD NOT PROCEED, BUT IF IT DOES, IT MUST DO SO ONLY WITH, AS A MINIMUM, THE CONDITIONS IDENTIFIED ABOVE.

We thank you for the opportunity for input and would be pleased to appear at hearings should you proceed with them.

Yours truly,

Don Yamkowy,
President

c.c. all MLA's
all N.W.T. Chamber of Commerce members

THE CITY OF YELLOWKNIFE
P.O. BOX 580
YELLOWKNIFE, N.W.T.
X1A 2N4
TELEPHONE: (403) 873-2671

OFFICE OF THE
MAYOR

January 19, 1993

Standing Committee on Finance
Legislative Assembly of the Northwest Territories
Box 1320
Yellowknife, NT X1A 2L9

Attention: Mr. Jim Antoine, MLA
Committee Chairperson

Dear Mr. Antoine,

RE: Written Submission on the Proposed Payroll Tax Act

In response to your recent invitation to interested parties to express their opinions on the proposed Payroll Tax Act, Yellowknife City Council wishes to file the enclosed written submission with the Standing Committee on Finance.

Sincerely,

R.M. Findlay, DC
Deputy Mayor

SUBMISSION BY THE CITY OF YELLOWKNIFE
TO
THE STANDING COMMITTEE ON FINANCE
LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES

ON

THE PROPOSED PAYROLL TAX ACT

Introduction:

The Chairperson of the Standing Committee on Finance asked for written submissions on the proposed Payroll Tax Act, and indicated that, depending on the level of interest generated by his request, he would determine if public hearings would be scheduled in 1993.

The City of Yellowknife is grateful to the Chairperson for the opportunity extended to organizations and individuals to make their views on this proposed tax known.

An overview of the City's position:

The City of Yellowknife applauds the Government of the Northwest Territories for considering revenue options rather than increasing existing income tax rates. The obvious advantage of the payroll tax is that it is a means by which those who now get a direct benefit from the North -and who do not now pay Northwest Territories Income Tax- can make a direct contribution to Territorial revenue.

Although the City supports this type of tax over other options such as sales taxes or increased income tax rates, City Council recommends that a number of matters associated with the proposed payroll tax initiative be clarified before the proposed legislation is adopted. These are:

- the Government of the Northwest Territories must reveal its full, long-term agenda respecting this tax
- administrative costs must be determined more accurately
- a complete assessment of the consequences of the entire tax initiative -including proposed credit scheme- should be undertaken

Why the City takes this position:

1. A need for a clear tax strategy

The information made available to Northwest Territories citizens has, in the view of City Council, been inadequate to this point. Many northerners believe that the tax will have a zero net financial impact on them. Too few citizens have been informed that the tax credit income redistribution program which was to be part of the package is a second phase, legislation for which will only be drafted once the Payroll Tax is in place. Might it be that the Government will have a less eager schedule to introduce amendments to the Territorial Income Tax Act? A delay in implementing the tax credit scheme would be a windfall for the GNWT! City Council recommends that the tax credit legislative amendments be introduced simultaneously with the Payroll Tax Act.

City Council further recommends that any future-year amendment to the payroll tax rate should automatically trigger reconsideration of the companion legislation which drives the tax credit mechanism.

Citizens must be informed that the Payroll Tax Act, as proposed, makes no guarantees that a tax credit system will be adopted.

2. A need to appreciate payroll tax administration costs

From information which the City has reviewed regarding the administration associated with the proposed tax, including the draft Payroll Tax Act, it is clear that the Government of the Northwest Territories is bracing itself for a major struggle to collect the estimated $2 million in payroll tax which would be contributed from employees living outside the Northwest Territories. It is an interesting observation to see that most of the text of the proposed Payroll Tax Act deals with the enforcement of the legislation. The added complexity of having territorial residents who employ workers supplied by non-resident employers being deemed to be the territorial resident's employees is bound to be a complex trail to identify and follow.

On an initial review, the City estimates that it would cost the City approximately $4,000 to administer the provisions of the proposed Payroll Tax Act as it applies to its own employees. It is very likely that administrative costs will be higher once there is a full understanding of all the administrative requirements (certificates, reports and records) associated with the proposed tax.

> An example of this for the City of Yellowknife could be as follows: the City uses a consulting engineering firm on a project. The City would be required to treat a contracted consulting engineer from the Edmonton-based firm as an employee. The City would process separate transactions for payroll tax deductions for the consultant, and then -to make its remittance to the Government of the Northwest Territories- would manually add this payroll tax deduction amount to an amount which was automatically (with program changes) generated by the City's computerized payroll system for City employees. In order to generate the payroll tax deduction amount for the consulting engineer, the City would have to get a rate of pay from the consulting engineer's employer on which to base the payroll tax. Both the City and the consulting engineer's office must keep records of the basis of the payroll tax transaction.

All of this involves tedious and expensive administration. It also raises the question: who will ultimately pay?

> Will that consulting engineer -for whom a payroll tax remittance was made by the City- be actually taxed with a deduction on his paycheque? Or, since the City will most likely recover its payroll tax remittance cost for the consulting engineer as a set-off against the firm's invoice,

will the firm consider this just a cost of doing business in the North? Will contractor rates perhaps be increased to reflect this added cost of doing business? Will it just be an indirect way of increasing the City's costs by making it pay for both the tax itself and for all the administrative costs associated with it?

City Council believes that more discussion of the administrative provisions of collecting this tax must take place.

3. A need to examine the full implications of the payroll tax

It is clear that the bulk of this initiative will be financed by employees in the Northwest Territories. Even with the plan to eventually introduce a tax credit to those same individuals, this initiative will take money out of the pockets of Northwest Territories citizens now with a promise of possibly getting some back later.

Many economists believe that consumers must be prompted to spend in order that economic activity be stimulated. This measure, however, takes that money rather than making it available for consumer spending. This measure, in an era where wage and benefit settlements with employee groups have been flat, will restrict consumer spending which will further retard economic activity.

Because about one third of the workforce of the Northwest Territories is located in Yellowknife, the economic impact of this reduction in disposable income will be felt most acutely.

There are other questions that also need to be raised. Will the imposition of the tax lead some people to leave the North? Will business people who have carried out projects in the North now want to have that work done in the South? (For example, if a Southern equipment service/salesperson previously travelled to Yellowknife to make sales and service calls, might the City now be required to have the equipment shipped to a Southern location for service? What about the hospitality and other service industry implications if this trend develops?)

Citizens should be made aware of the results of studies undertaken by Government of the Northwest Territories officials on the proposed tax.

Conclusion:

It is the view of Yellowknife City Council that a payroll tax is less objectionable than other forms of taxation. One of the greatest needs that the public has is for accurate and uncomplicated information on the proposed tax. The Standing Committee on Finance would provide a worthwhile service by holding well-publicized hearings on the proposed Payroll Tax Act. On behalf of the citizens of Yellowknife, City Council requests that a public hearing be held in Yellowknife.

**Chartered
Accountants
of the Northwest
Territories**

**Institute of Chartered Accountants
of the Northwest Territories
P. O. Box 2433
Yellowknife, Northwest Territories
X1A 2P8 Canada
Tel: (403) 873-3680**

January 20, 1993

Jim Antoine, MLA
Chairman
Standing Committee on Finance
Legislative Assembly of the NWT
P.O. Box 1320
Yellowknife, NWT
X1A 2L9

Attention: Doug Schauerte
Committee Clerk

Dear Mr. Antoine:

The Institute of Chartered Accountants of the Northwest Territories has reviewed the draft bill on the proposed Payroll Tax to the best of our ability given the tight time frame for comments. It is difficult to provide comments without a full understanding of the purpose behind the proposed legislation, therefore in order to review the bill we have made some assumptions and have relied on our general understanding of the purpose of the legislation as reported in the press. The following comments are for the consideration of the Committee and the Institute does not, at this point, have any opinion on the desirability of the proposed legislation.

Administration Costs

The imposition of a third tax, in addition to income tax and Goods and Services Tax (GST) adds an administrative burden to business by providing another tracking and reporting problem. Even though, on the surface, this appears to be a relatively simple tax to calculate, it nevertheless will require adjustment to payroll systems and development of procedures.

The tracking and reporting of this tax will be more difficult and therefore more expensive for southern companies than for resident northern companies. Should another province adopt a similar tax it would quickly become impossible for business to track and report the required information at a reasonable cost.

The new tax will have the accompanying cost of a new bureaucracy. This tax will be very difficult to monitor where southern companies are involved and the cost of policing this tax, while perhaps initially modest, could become very high. The costs associated with administering a new tax tend to increase as evidenced by the recent GST.

There is a certain amount of risk associated with a new tax from the Government's point of view. New taxes provide incentive for individuals and business to seek ways to avoid or reduce the tax. This in turn requires government's to close "loop holes" and the administration of the tax becomes more complex. This tax does not apply to self-employed individuals, therefore this will be further incentive to structure "employment" relationships as contracts to avoid this tax. While "deemed" employment rules exist this problem should not be minimized as the enforcement of the "deemed" employment rules increases the administrative costs.

Tax Revenues

If the purpose of the new tax is to increase Government revenues there are simpler, less expensive options available. A change to the income tax rate or the addition of a sales tax tied to the GST would be simpler and cheaper for both the Government and business. The systems are already in place for both these taxes.

This 1% tax on gross remuneration is the equivalent to an increase in the Territorial tax rate of a minimum of 7% for income earners in the top marginal bracket. The increase may be more as the tax is on gross income and not taxable income. As such it taxes income that may not be taxable for income tax purposes.

Penalties

Failure to pay the Payroll Tax in the proper amount and when required results in various penalties and interest charges which are quite high. It is our experience that many of the boards and agencies funded by the Government already have problems meeting the requirements of income tax and GST payment due dates. They incur penalties and interest charges on a regular basis and the addition of the payroll tax may only add to this problem. This in turn may lead to a decrease in the services these boards and agencies can provide or require an increase in Government funding.

This tax is designed to be an employee tax but may, in the case of southern employees, become an employer tax. This is to be expected because in many cases it is the southern company that is getting the benefit from the Territorial work and not the employee.

Leakage

The press has stated that the purpose of this tax is to recover the "leakage" from the tax system that allows individuals to earn income in the Territories but who do not pay any Territorial tax because they are residents of another province. The following comments are based on the assumption that this is true.

If it is not fully refundable, or only partially refundable depending on income levels then it ceases to be a payroll tax and becomes an income tax. In order for the Payroll Tax to only affect the "leakage" it must be fully refundable to northern residents. If this tax is an "income tax" it may be easier to use the existing income tax policies and procedures to increase income tax revenue rather than develop a new tax with its attached costs.

If the tax is only meant to apply to what we will refer to as southern non-resident workers then its effect on Territorial residents and business should be minimal. However because of the cost of the Government bureaucracy, the cost of developing systems to collect and report the tax and the potential for penalty charges, this proposed tax may have more than the desired minimal affect on northerners.

If the tax is meant only to apply to southern companies it would be beneficial to know what the expected amount of net revenue will be after the refund to Territorial residents.

Conclusion

The Institute shares the Assemblies desire to somehow stop this seeming "leakage" of tax revenue. However, if the concerns raised above cannot be addressed satisfactorily, the Payroll Tax may be a case of over-kill.

It would be helpful to be able to review the proposed regulations associated with the Payroll Tax Act and any legislation governing refundable credits. While the majority of remuneration that would be subject to this tax is relatively straight forward, there may be some payments or benefits that may cause problems.

Should you wish to discuss our comments please do not hesitate to call us.

Yours very truly,

B.J. Ashton, FCA
President

SUBMISSION BY
FITZ/SMITH NATIVE DEVELOPMENT CORPORATION LTD.
BOX 89, FORT SMITH, NWT

TO:
GNWT STANDING COMMITTEE ON FINANCE
BOX 1320
YELLOWKNIFE, NWT
X0E 0P0

AS A MAJOR EMPLOYER OF PERSONS INTHE PRIVATE SECTOR IN FORT SMITH, WE WISH TO EXPRESS THE FOLLOWING CONCERNS AS TO THE "PROPOSED PAYROLL TAX"

1. NO BASIC SUSTENANCE LEVEL OF INCOME EXEMPTION IS CONSIDERED, THEREFORE THE PROPOSED TAX WILL BE UNDULY HARD ON LOW INCOME FAMILIES.

2. EFFECTIVE JAN 1/93, THE TERRITORIAL TAX RATE OF BASIC FEDERAL TAX ALSO INCREASES BY 1% FROM 44% TO 45%

3. PUBLICATION OF "REQUEST FOR WRITTEN SUBMISSIONS" ON THIS PROPOSED TAX APPEARED IN THE JAN. 6TH/93 ISSUE OF THE HUB.
   THAT LEFT 14 DAYS IN WHICH:
   a. THE PAPER HAD TO BE DISTRIBUTED THROUGH THE MAILS.
   b. COPIES OF THE ACT HAD TO BE THEN REQUESTED BY PHONE OR FAX
   c. THE PROPOSED ACT THEN HAD TO BE DISTRIBUTED THROUGH THE POSTAL SYSTEM
   d. THE ACT HAD TO BE STUDIED AND ITS IMPLICATIONS PERCEIVED
   e. A COURSE OF ACTION HAD TO BE DECIDED UPON, AND A PRESENTATION PUT TOGETHER.
   f. NO TIME HAS BEEN ALLOWED FOR THE PROPER DEVELOPMENT OF A SUBMISSION, NOR ITS TRANSMISSION THROUGH THE MAILS

4. THE PROPOSED PAYROLL TAX IS NOT INCORPORATED INTO ANY 1993 COMPUTER PAYROLL PROGRAMMES

5. NO GUIDELINES ARE GIVEN AS TO WHETHER THE EMPLOYEE IS TO ALSO BEAR CPP AND UIC AND INCOME TAX ON THIS AMOUNT OR WHETHER THESE ARE CALCULATED AFTER ITS DEDUCTION.

6. NO GUIDELINES ARE GIVEN AS TO WHETHER SUBSIDIZED HOUSING GROSS INCOME BASE IS TO BE BEFORE OR AFTER THE TAX. IF BEFORE, THEN IT COMPOUNDS THE AMOUNT OF "UNRECEIVED INCOME" UNAVAILABLE TO THE EMPLOYEE BUT INCLUDED IN HIS RENT ASSESSMENT

FITZ-SMITH NATIVE DEV. CORP. LTD. PAYROLL TAX SUBMISSION

IN SUMMARY WE FEEL:

1. THE LOWER INCOME FAMILIES WILL BE SUBJECTED TO ADDITIONAL HARDSHIP IN A TIME OF ECONOMIC CONSTRAINT
2. EMPLOYERS WILL BE SUBJECTED TO ADDITIONAL ACCOUNTING PROBLEMS AND EXPENSES
3. ITS EFFECT WILL BE DOUBLED BY THE 1993 INCREASE IN TERRITORIAL PERCENTAGE OF BASIC FEDERAL TAX FROM 44% TO 45%
4. INSUFFICIENT TIME HAS BEEN ALLOWED FOR SUBMISSIONS
5. INFORMATION WAS ISSUED TO ALL BUSINESSES OR EMPLOYERS IN THE NWT, THEREFORE MANY YET ARE UNAWARE OF THE PROPOSED TAX
6. WE STRONGLY FEEL THAT THE GOVERNMENT OF THE NWT WOULD BE FAR WISER RAISING FUNDS BY APPLYING THIS TAX TO LIQUOR, TOBACCO AND SUCH NON-ESSENTIAL ITEMS

HAY RIVER MECHANICAL LTD.

28 Melville Drive
Yellowknife, N.W.T.
X1A 2N2

Telephone: (403) 920-4197
Fax: (403) 920-4296

Mailing Address:
P.O. Box 2142
Yellowknife, N.W.T. X1A 1N3

January 18, 1993

GOVERNMENT OF THE NORTHWEST TERRITORIES
Committe Clerk
Standing Committee on Finance
Legislative Assembly
Yellowknife, N.W.T.

ATTENTION: MR. DOUG SCHAUERTE

Dear Sir:

RE: PROPOSED PAYROLL TAX ACT

We are greatly disturbed by the introduction of the above noted draft Bill and wish to voice our objections in this regard.

As a small mechanical contractor, we find it difficult to secure qualified tradesmen who are willing to work under existing conditions. With the implementation of this Bill it will be even more difficult to provide the workmanship required on our various projects. The wage scale will escalate to offset this employee tax and we will not only be forced to pay increased wages but incur additional expense for computer adaptation to incorporate this step.

Instead of encouraging all peoples to work, this Bill will have the adverse effect. It will also discourage potential industry and generally create a discontented state.

We see no point in assessing employees on the one hand and then perhaps offering them a payroll tax credit on the other.

At the present time, the proposed Bill is still very ambiguous and requires further clarification and much thought before actual legislation.

We strongly urge you to consider other alternatives for increasing finances before addressing the taxpayer directly. When one considers the long range ramifications of this intended action, more harm than good will come from such a venture.

Please keep us informed as to your final decision on this matter.

Yours very truly,
HAY RIVER MECHANICAL LTD.

B.J. HENKEL

/bj

yellowknife chamber of commerce
BOX 906, YELLOWKNIFE, NORTHWEST TERRITORIES, CANADA X1A 2N7
TEL: (403) 920-4944 FAX: (403) 920-4640

January 20, 1992

Mr. Jim Antoine - Chairman
Standing Committee on Finance
Legislative Assembly
Yellowknife, NT
X1A 2L9

Re: Proposed Pay-roll Tax Act

Dear Mr. Antoine:

Thank you for the opportunity to give our position on this proposed new act.

The Yellowknife Chamber of Commerce wishes to be recognised as not supporting the proposed Payroll Tax Act.

The reasons for our position are stated in the attached presentation which was prepared by the NWT Chamber of Commerce. We endorse this position.

Areas we would like to reinforce are noted below.

1. The Tax Credit noted under item 5 of the NWTCC paper in many cases exceeds the amount of tax paid. In some cases, individuals are not required to pay the tax, but are entitled to the maximum credit.

2. The Tax Credit mentioned may be unconstitutional and could possibly not be approved. This is totally unacceptable

We would be pleased to personally present our position to your committee should you proceed with hearings.

Sincerely,

YELLOWKNIFE CHAMBER OF COMMERCE
Joseph Auge, President

NWT
CHAMBER OF COMMERCE

January 19, 1993

Mr. Jim Antoine
Chairperson
Standing Committee on Finance
Legislative Assembly of the Northwest Territories
YELLOWKNIFE, NT X1A 2L9

Dear Mr. Antoine:

re: Proposed Payroll Tax Act

Thank you for your recent letter inviting the Chamber to offer a written submission on the proposed Payroll Tax Act.

In order to prepare our comments for you, our Chamber formed an ad hoc committee to review the Act, polled our members across the Territories for their comments and reactions and met with officials of the Department of Finance who were very helpful in assisting us to better understand some of the finer points within the Act and the context in which this Act is presented.

The membership of the Northwest Territories Chamber of Commerce is made up of all local and regional Chambers of Commerce, with the exception of those in the Keewatin who decline our invitations for membership, and a number of associate members who are principally larger corporations who have an interest in the general business climate of the Northwest Territories.

THE MEMBERS OF OUR CHAMBER RECOMMEND THAT THE GOVERNMENT NOT PROCEED WITH THE IMPLEMENTATION OF THE PROPOSED PAYROLL TAX ACT FOR THE FOLLOWING REASONS:

1. REDUCE EXPENDITURES, DO NOT RAISE TAXES - The business community is pressed to find that there is such a thing as an acceptable tax. In managing it's financial house, the government should be looking to expenditure reductions not increases in taxes. The government should develop business stimulation programs, not taxation, to increase revenues.

2. ADMINISTRATIVE COST BURDEN TO SMALL BUSINESS - A strong, practical objection of our members to the introduction of this tax is the administrative burden it will cause at a time when many are struggling to maintain their financial viability. A tax introduction is generally more manageable in times of economic growth and profitability rather than during a recession when businesses must concentrate their energies on maintaining revenues and cutting costs. Businesses should not be asked to accept this administrative task and attendant cost at this time.

3. LACK OF ACCOUNTING PROCEDURES - Many computer programs, in particular Simply Accounting (Bedford), a program commonly used by small business in the Northwest Territories, do not have the capability for the integration of a percentage deduction from an employee's paycheck. While these programs are commonly adjusted for new government taxation initiatives, we have no knowledge that this will be contemplated for an N.W.T. tax. For manual payrolls, all government required deductions are supplied to the employer by means of tables. We are not aware that these tables will be provided for this deduction.

4. NO MENTION OF TAX CREDIT - The Payroll Tax Act makes no mention of the proposed Cost of Living Tax Credit. Therefore, on the face of it, the Payroll Tax adds an additional 1% burden to employees in the N.W.T. in addition to the 1% recently imposed through Personal Income Tax. However, if we believe that the Payroll Tax Act would not be implemented without the Cost of Living Tax Credit, then we understand that for most employees of small business they will in fact enjoy a net gain. The Payroll Tax by itself however is unacceptable.

5. MULTI LOCATION STAFF - There will an administrative headache for those companies who have staff who routinely work in different jurisdictions. A construction company, for instance, will be expected to keep track of how much time the Edmonton supervisor spends in the Northwest Territories and make the required pro rata payroll tax deduction.

6. MINIMAL GNWT REVENUES - We understand that anticipated revenues under the Payroll Tax, when it is fully implemented will be approximately $12 million annually and that the cost of the Cost of Living Tax Credit, when fully implemented, will be approximately $10 million annually. These two initiatives will therefore generate a maximum net annual revenue to the Government of the Northwest Territories of approximately $2 million. The Government is asking the business community to incur the cost and time of collecting and administering the tax for the gain of a maximum of $2 million. We think that this is an unwarranted request to make.

7. INFORMATION - There has been no information dissemination about this proposed Tax. We have three sources of information:
    a. Mention of the plan to introduce the payroll tax in the Budget speech delivered September 10, 1992.
    b. The tabling of the proposed payroll tax legislation in the Legislature during the November, 1992 session.
    c. A meeting with members of our ad hoc Payroll Tax committee and Finance Department officials on January 15, 1993. Receipt, at that meeting, of a summary sheet entitled PROPOSED NORTHWEST TERRITORIES PAYROLL TAX.

    The business community - the proposed tax collector agency - is "in the dark" about what the tax is all about, how it is proposed to be implemented, what the financial reporting requirements will be, etc.

The Chamber recognizes that the Government is faced with task of generating revenues. Taxation is an avenue normally explored. Our ad hoc committee members have gained a rudimentary understanding of the challenge the Government faces in generating revenues and the resultant impact on the financial arrangements with the Federal Government. We understand there is a "perversity factor" in effect wherein for every dollar ($1.00) the Territorial Government generates, a dollar and twenty-five cents ($1.25) is lost from federal grant.

The members of the N.W.T. Chamber of Commerce work towards economic development and expansion in the Northwest Territories and encourage the influx of investment dollars. However, we can see that this objective comes at a premium price if revenues generated cause a net loss in the federal subsidy. The Chamber finds this existing arrangement to be an impediment to N.W.T. development and would encourage the Federal government to revisit this stipulation as it currently serves as a disincentive to economic growth and self reliance for the N.W.T..

The Chamber also understands that one of the prime objectives of this Payroll Tax initiative is to capture some of the employment income dollars that are earned from the resources of the Northwest Territories but which are not then available for reinvestment in the Territories. It has been long recognized that efforts must be made to keep some of this income in the Territories and to that extent the Chamber is supportive of the Government's intent.

SHOULD THE GOVERNMENT OF THE NORTHWEST TERRITORIES PROCEED WITH THE IMPLEMENTATION OF THE PAYROLL TAX ACT, THE CHAMBER REQUIRES, AS A MINIMUM, THE FOLLOWING CONDITIONS:

1. COST OF LIVING TAX CREDIT - The Payroll Tax can only proceed along with the Cost of Living Tax Credit proposal. We understand that with the two programs in place, a resident of the Northwest Territories who files an income tax return and who earns less than approximately $60,000 employment income per year will in fact enjoy a better net financial position than she/he does at present. Without the Cost of Living Tax Credit, however, employees will be subjected to the double deduction of the 1% payroll tax on top of the 1% personal income tax increase this year which is just not acceptable.

2. REVENUES TO ECONOMIC DEVELOPMENT - The net revenues produced must go towards stimulation of the economic sector and economic development programs. The development of financial self reliance must be the long term goal of the Government of the Northwest Territories. Earmarking these revenues to this goal will appease businesspeople somewhat through the merits of the investment in the long term economic future of the Northwest Territories.

3. COST OF COLLECTION PAYMENT - There must be, concurrent with implementation of the Payroll Tax, a payment to small business to offset the administrative costs of collecting the tax. Businesses are simply not in a position to absorb further government mandated costs.

4. REGULATIONS - The business community must be part of the process in developing the regulations pursuant to the Act prior to their adoption by Government. Business is too often put in the position of being asked to implement an unknown entity. The government expects the business community to be their tax collector, and therefore must work with business in the development of the process.

5. TIME - There must be enough lead time and sufficient information for business to be well informed and well equipped to smoothly accept the tax collection function.

We ask members of the Committee to consider that we offer these comments based on the information made available to us. We are not in a position to fully understand and therefore comment meaningfully upon the full impact of the proposed legislation. It may be that with further information or clarification, our comments may be altered.

IN SUMMARY. IT IS THE POSITION OF THE MEMBERS OF THE NORTHWEST TERRITORIES CHAMBER OF COMMERCE THAT THE PROPOSED PAYROLL TAX SHOULD NOT PROCEED. BUT IF IT DOES. IT MUST DO SO ONLY WITH. AS A MINIMUM. THE CONDITIONS IDENTIFIED ABOVE.

We thank you for the opportunity for input and would be pleased to appear at hearings should you proceed with them.

Yours truly.

Don Yankowy.
President

c.c. all MLA's
all N.W.T. Chamber of Commerce members

NORTHWEST TERRITORIES CONSTRUCTION ASSOCIATION

#201, 4817-49th Street Yellowknife, N.W.T. X1A 3S7

20 January 1993

Mr. Jim Antoine, MLA
Chairman
Standing Committee on Finance
Legislative Assembly of the Northwest Territories
Yellowknife, NWT

RE: The GNWT Payroll Tax

Dear Mr. Antoine,

The NWT Construction Association has reviewed the proposed Payroll Tax Act, distributed a summary of the Draft Bill to our membership in our Weekly Bulletin, and polled the views of members. Our membership response has been overwhelmingly negative towards the Draft Bill.

The following are our main points of concern.

1. Most companies and directors are confused over the title of the Bill? Is the legislation a Payroll Tax or an additional tax on the income of employees? Our members believe that this bill is intended to be a tax on income and not a payroll tax, as understood in other jurisdictions.

2. Many members of the Association believe that the Government will have a very difficult time collecting the tax from employees who are employed in firms located outside of the NWT, but work occasionally in the NWT - not an unusual occurrence in the North.

Employers, Registered for the Tax, will have to deduct the Payroll Tax from portions of their employees annual salaries which have been earned in the Northwest Territories.

How will this be scrutinized by the Government inside and outside of the NWT. Will the RCMP police? Who will monitor? What powers will the NWT Government have to compel employers outside of the NWT to reveal their payroll information or to substantiate their payments, or lack of payments, on behalf of employees?

Telephone: (403) 873-3949 Fax: (403) 873-8366

In addition, if a firm is not registered with the GNWT for the Payroll Tax and sub-contracts to a firm which is registered, is the registered firm liable to collect the Tax from the employees of the non-registered contractor? How could this work?

3. The Minister of Finance, the Honourable John Pollard, when discussing the Bill last year did mention an income tax credit being available, but this has not been prescribed in the Bill. Our membership believes that employees will want to be compensated for the Payroll Tax by having an increase in wages. As a result, this will have a cost effect on Northern construction.

Our Board of Directors met on January 19, 1993. They reviewed the main points raised by the membership and unanimously concluded that the draft **Payroll Tax Act** be rejected.

Consequently, we are proposing that the Standing Committee on Finance return the Bill to the Government with a recommendation that the proposed **Payroll Tax Act** be quashed.

Sincerely,

Richard Bushey

Richard Bushey
Executive Director

NORTHWEST TERRITORIES
FEDERATION OF LABOUR
BOX 2787, YELLOWKNIFE, N.W.T. X1A 2R1
PHONE (403) 873-3695 FAX (403) 873-6979

January 21, 1993.

Members
Standing Committee on Finance
Legislative Assembly of the NWT
Box 1320
Yellowknife, NWT
X1A 2L9

Dear Legislators:

Re: PAYROLL TAX Act Proposal

Further to our letter of December 22, 1992, to the Committee Chairperson, we wish to express our grave concern that such a serious tax measure would be put forward without a full public hearing.

It is imperative that the MLA's Standing Committee on Finance hold a public hearing into this proposal immediately, as written submissions cannot fully convey our full feelings and the public's sentiment about such an insidious measure.

We sincerely hope the public will have a chance to discuss this matter directly with the Committee in an open hearing *before* the proposal is brought to the floor of the Legislative Assembly. Apparently, the territorial Cabinet's plans for implementing the proposed Act this Spring have already helped rush the public process. We understand that is one of the reasons why submissions were requested without a public hearing.

The territorial government has no mandate from the voters to impose this special 'Expo tax' on NWT workers -- nor any mandate to make small businesses into tax collectors. Therefore, the Government of the NWT must not proceed with a secretive review of the subject. It is unfortunate that even the Committee's final decision whether or not to hold public hearings will be made behind closed doors today.

We implore you to uphold the trust placed in you by your constituents, and not give in to pressure from Cabinet to quietly ram through this unpopular tax measure.

Yours truly,

Jim Evoy, President

cc: All Affiliated Unions
Yellowknife Chamber of Commerce

encls.

FILE COPY

NORTHWEST TERRITORIES
FEDERATION OF LABOUR
BOX 2787, YELLOWKNIFE, N.W.T. X1A 2R1
PHONE (403) 873-3695 FAX (403) 873-6979

December 22, 1992.

Jim Antoine, MLA
Chairman
Standing Committee on Finance
Legislative Assembly of the NWT
Box 1320
Yellowknife, NWT
X1A 2L9

Dear Mr. Antoine:

Please be advised that the *Northwest Territories Federation of Labour* wishes to make a formal submission to the *Committee* in the New Year regarding the proposed **Payroll Tax Act**.

At this time, we wish to convey our express wish to appear in person before the *Committee* at a public hearing into said Bill. It is indeed imperative that a proposal for such a taxation measure be aired fully before the public in only the most open manner.

Wishing you all the best for a peaceful holiday season and good New Year.

Yours truly,

Jim Evoy
President

N.W.T. Association of Municipalities

Suite 304
Medical Arts Bldg.
4920 - 47th Street
P.O. Box 1529
Yellowknife, N.W.T.
X1A 2P2
Tel. (403) 873-8359
Fax (403) 873-5801

January 21, 1993

Mr. Jim Antoine, MLA
Chairman, Standing Committee on Fiance
Government of the NWT
Box 1320
Yellowknife, NWT
X1A 2L9

Dear Mr. Antoine:

On behalf of the NWT Association of Municipalities I would like to thank you for the opportunity to share our comments concerning the proposed Payroll Tax Act.

The Association has had some difficulty in obtaining information pertaining to this proposed Tax. There was a mention of the plan to introduce the payroll tax in the Budget speech delivered September 10, 1992, then tabling of the proposed tax in the Legislature during the November, 1992 session. The Association received, upon request, a short summary of the rationale behind the purposed tax from the Department of Finance. This summary outlined the objectives and design of the tax. The summary also made mention of a proposed Cost of Living Tax Credit, which is to be implemented the same time as the Payroll Tax Act. However, the Purposed Payroll Tax Act made no mention of a Cost of Living Tax Credit.

Certainly in this time of economic hardships, when many northern employees and employers are experiencing salary & benefits restraints while the consumer price index continues to rise, the concept of imposing an additional tax would seem quite undesirable.

Undoubtedly it is employees who will be most affected by this tax. Deferring 1 % of the gross income until year end and theoretically get it back, (if the Cost of Living Tax Credit is implemented) when they prepare their income tax returns. However the additional administration costs to employers, ie, payroll program changes, reconciliations, etc. should not be over looked.

.../2

We have been informed that the estimated revenues raised by the Payroll Tax is approximately $11.9 million annual, and the cost of the Payroll Tax Credit, once implemented, will be $10 million, leaving the Government of the Northwest Territories with a maximum net revenue of $1.9 million dollars. It would seem unreasonable to ask the employers to incur this extra costs for collecting and administering the tax, and employees to defer their income, for a maximum gain of $1.9 million.

Although the Association supports the main objective of this tax, to obtain revenue from individuals who work in the Northwest Territories but who do not pay income taxes to the Government of the Northwest Territories, we believe it is essential that the Government of the Northwest Territories provide more information to the public before considering such a tax.

Thank you for taking the time to review our concerns.

Sincerely,

Yvette Bungay
Executive Director
NWTAM

Canadian Broadcasting Corporation
Société Radio-Canada
Box 8478
Ottawa, Ontario
K1G 3J5

January 20, 1993

Northwest Territories
Legislative Assembly
Standing Committee on Finance
C/O Doug Schauerte
P.O. Box 1320
Yellowknife, NWT
X1A 2L9

Subject: CBC's opinion on Proposed Payroll Tax Act

The Canadian Broadcasting Corporation is concerned by the possible burden that the new tax could put on the employer. Because of the absence of details available on how the tax would be applied, we cannot specifically comment on this aspect.

Nevertheless, we consider that if the tax is applicable to employees other than employees subject to NWT Income tax deductions at source, we will be faced with major difficulties, and complex administrative activities. The same type of difficulties are envisaged if the taxable benefits for Payroll Tax purposes differ from the taxable benefits for Income Tax purposes.

The greatest difficulty we are foreseeing however, is with the mechanism we would have to put in place to be informed of a situation where an employee from any of our many offices across Canada and usually working below the 60th parallel, is assigned for a very short period of time (2 days, 2 weeks, ...) to work above the 60th parallel. The CBC payroll department being centralized in Ottawa, we cannot see how we could reinforce an internal policy that would address this subject.

I will conclude by indicating that the proposed tax will, if implemented, create a potential for industrial relation problems, as we can foresee situations where employees could refuse assignments to the NWT because of the impact of the Payroll tax, on their net income.

I thank you for the opportunity given to us to express our opinion on this subject.

Michel Perras
Director, National Payment Centre
(613) 727-7119

/rd

ARCTIC VENTURES LTD.
P.O. BOX 870 - IQALUIT, N.W.T., CANADA, X0A 0H0
(819) 979-4252 FAX: (819) 979-4207

21 January 1993.

Standing Committee on Finance,
Legislative Assembly,
Yellowknife, N.W.T.

ATTENTION: Mr. Jim Antoine.
Committee Chairperson. FAX: 403-920-4735

PROPOSED PAYROLL TAX ACT

I would like to voice my objection to the proposed Payroll Tax Act.

This piece of legislation appears to be unworkable, and cannot accomplish the purpose for which it is intended. The intent, as I understand it, is primarily to find a way to earn some tax revenues from the many people who live in other jurisdictions and pay their taxes in the jurisdictions in which they reside at the close of each year. I applaud the intent. But I cannot see how this legislation will accomplish it.

My particular concern is with Section 4 (2) and (3), the section dealing with a "deemed employee". This is a long and cumbersome section which is best understand by attaching hypothetical names to the individuals/businesses in question. So let us see how this section works using "Kenn Harper/Arctic Ventures Ltd." as the "Territorial resident", "Edwards of Canada" (a southern company which contracts for annual service of fire alarm panels) as the "non-resident employer", and "John Smith" as the "individual employed by the non-resident employer". Then this section seems to mean:

(2) Where Kenn Harper/Arctic Ventures enters into an agreement with Edwards of Canada under which work is performed... by John Smith employed by Edwards of Canada, Kenn Harper/Arctic Ventures shall be deemed to be the employer of John Smith and John Smith shall be deemed to be an employee of Kenn Harper/Arctic Ventures...

...2

(3) Kenn Harper/Arctic Ventures shall be deemed to pay remuneration to John Smith during the period in which John Smith is deemed to be an employee of Kenn Harper/Arctic Ventures, in an amount equal to the remuneration paid by Edwards of Canada to John Smith...

The questions that arise are these:

1. How would Arctic Ventures know how much remuneration Edwards of Canada was paying John Smith? All Arctic Ventures would know would be the contract price it was paying Edwards of Canada, which certainly would not be equal to John Smith's salary.

2. Are you suggestion that Arctic Ventures should deduct 1% from the amount that it pays Edwards of Canada and send it to Yellowknife? We could not do that, if we had a contract with Edwards of Canada. Edwards would insist on full payment. Moreover, John Smith would have paid nothing. So Arctic Ventures, the deemed employer, would have paid, rather than the employee who appears to be the target of this legislation. And Arctic Ventures would be subject to penalties if it did not pay such tax.

3. How would the Government of the Northwest Territories know or suspect that Arctic Ventures had entered into a contract with Edwards of Canada?

The above scenario is ludicrous. I can only assume that I am reading this complicated section correctly, and if I am not I hope you will let me know

Moreover, section 1 (2) ("Fixed place of business") (h) appears to conflict with section 4 (2) (a).

It seems impossible that this piece of legislation can accomplish its purpose of getting tax revenue from southern residents temporarily employed in the north by southern-based companies. If it cannot achieve this purpose, then why proceed with it, since the tax paid by northern residents will be largely off-set with a tax credit? For no appreciable gain in revenue, a cumbersome bureaucracy will have been created and a needless administrative burden will have been laid on employers.

...3

Finally, the territorial economy cannot afford any new taxes, given the dreadful state of the economy.

Yours sincerely,

Kenn Harper

Kenn Harper,
President,
Arctic Ventures Ltd.

January 22, 1993

RECEIVED BY FAX

The Hon. John Pollard
Minister of Finance
P.O. Box 1320
Yellowknife, NT
X1A 2L9

Dear Mr. Pollard:

Re: PROPOSED PAYROLL TAX ACT

I have reviewed the proposed legislation in detail and identified a number of specific concerns. However, these are overshadowed by the dominant conclusion that the payroll tax is simply the wrong thing to do. No fine-tuning or modifications are going to change that, and reduce the overall negative impact of the tax to a bearable level.

There are several reasons to reject the payroll tax:

1. Regardless of its design, the last thing businesses, and the public, need right now is another tax with more rules and paperwork. Governments must find ways to work within existing systems. Businesses and the public have been hit too many times with more taxes and programs which seem to solve little while adding incrementally to a huge total tax/red-tape burden.

   To reinforce this point, attached are the latest CFIB survey results on our NWT members "most important problems". The issues causing the most widespread concern are:

Total tax burden	69.0%
Government red-tape	59.8%.

2. The additional administration required of employers should not be considered inconsequential, especially since this burden will only get worse over time. Small business is not equipped to handle what it must deal with now and the government must avoid piling on more if at all possible.

   Furthermore, the attached data indicates that medium sized businesses, in spite of their administrative and computer resources are also seriously concerned with the red-tape problem.

.../2

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Certainly 54 pages of complex legislation gives no confidence that the bureaucracy will control its tendencies to fuel more red-tape over time in a payroll tax system.

3. The proposed tax system presents a number of pitfalls into which employers may unintentionally fall because this is one more set of rules, one more set of unjustified obligations, and one more thing confusing the cash flow picture. Bad laws create unintentional rule breakers.

4. Once in place, the pressure to generate greater revenues will win out over the original limitations to the tax period. The tax will be increased and its scope expanded, and with it the administrative burden and the impact on consumer confidence and the economy.

5. It seems questionable to justify a payroll tax for the purpose of recapturing revenue leakage due to non-resident workers. The tax would only catch a relatively small amount of this income, making it ineffective. This would again create pressure to increase the tax or to reduce the offsetting tax credit which will catch more and more NWT residents in this tax net.

A payroll tax will add to the burden that NWT businesses carry, and especially small business because they are least able to absorb and assimilate the requirements of the tax. Although the proposed tax may not be as bad for employers as others in Canada because it is a deduction not a surcharge, it is still bad enough that it should be rejected. And as I noted in my previous letter, a small tax always gets bigger and a simple tax always gets more complex.

CFIB urges the GNWT to go back to the drawing board for a solution to their revenue/spending problem. Certainly in regards to the specific problem of non-residents, a payroll tax is the type of overkill where, in the final analysis, the cure is worse than the illness.

Sincerely,

for Doug Wright
Director of Provincial Affairs
Alberta

DW:lod

c.c. Richard Bushey

NORTHWEST TERRITORIES DATA - MOST IMPORTANT PROBLEM
Canadian Federation of Independent Business
January 1993 National Survey 31

Which of the following issues should be a high priority for CFIB ACTION? (circle as many as apply)

	Percentage Response TOTALS
Total tax burden	69.0
Government regulation and paperburden	59.8
Workers' Compensation	52.9
Cost of Municipal Government	37.9
Availability of financing	27.6
Shortage of qualified labour	26.4
Territorial labour laws	13.8
Other	5.7

	Response by Number of Employees		
	0 - 4	5 - 19	20 - 99
Government regulation and paperburden	56.5%	56.5%	72.2%

NS31Q1.NWT
21-01-93

Union of Northern Workers
submission on

Payroll Tax

Submission to
the NWT Legislative Assembly
Standing Committee on Finance

January 27, 1993
Yellowknife, NWT

January 27, 1992

GNWT payroll tax -- UNW concerns

Introductory comments

The UNW appreciates the opportunity to submit written comments on the Payroll tax legislation. We believe that the tax should be put before a Legislative Assembly public hearing. This way, Finance officials would be available to answer questions. We raise many questions and concerns here, but are unclear how our questions can be answered when we are only submitting a written report.

The UNW does not support the implementation of a payroll tax. In our opinion, this type of tax will simply increase piece work on construction sites. Most of the piece meal companies will not have employees, so the owners of these companies will not pay any payroll tax. They would also not pay any UI nor WCB premiums. This tax would push people into this type of business. The payroll tax will do away with the concept of employees.

The GNWT has stated numerous times that they want to help small businesses, but this tax will hinder and in some cases possibly shut the doors of a business.

Any tax of this nature or any other nature simply removes money from the northern economy and keeps the north in a recession.

Many of the reasons we are against the Payroll Tax are stated in our September 17/92 press release, which was issued just after the Minister announced the tax was coming down. A copy of the Press Release is attached at the end of this report.

For these reasons, we oppose a Payroll Tax. But if the tax does go ahead, we have many concerns and questions regarding the tax, and why we think it won't work if implemented in the form listed in the draft

Bill. Many articles in the Bill need to be changed. We have commented on these as well.

General comments

The Payroll tax is the first of its kind, although some other jurisdictions have similar taxes. Since this is a tax on workers, it would be appropriately put specifically into education and training for northern workers.

GNWT should put all Payroll Tax revenue generated from the payroll tax into a specific fund for education and training of northerners for the workforce.

The Minister stated in his budget address that a tax credit will allow northern residents earning up to $66,000 to get back up to $645. However, even though the Payroll Tax Act has been tabled and given second reading, there hasn't been any detailed information on the tax credit tabled. All we have been told is the brief comment in the Minister's budget address September 10/92:

> "I am announcing a new territorial tax credit, which will become effective July 1, 1993. When it is fully implemented, individuals who live in the NWT will receive a tax credit of up to $645, depending on income. The credit will be fully refundable. In other words, taxpayers who report income as NWT residents will be eligible to receive it, even if they have no income tax payable. Legislation to implement this change will be tabled in the next session of the Legislative Assembly"

The tax credit and the payroll tax go hand in hand. We've seen one hand, now let the public see the other.

The GNWT should immediately table for public review the payroll tax credit legislation and regulations, so they can be reviewed along with the payroll tax bill.

GNWT Finance officials have revealed that the tax credit is based on net income. Without any further information it looks as if workers will pay more in payroll tax (based on gross income) than they will get back in tax credit (based on net income). Without knowing the rates of tax credit, we are concerned that workers will pay out more in payroll tax than they will get back in credit.

Also, even if a northerner doesn't pay any payroll tax, they can still qualify for the tax credit. Many northerners in this group may not bother filling out an application form.

The GNWT should automatically pay the payroll tax credit to northerners who don't pay any payroll tax. There should not be the requirement that these northern residents have to fill out a return.

This will save on administrative costs, and ensure that more people in the target group actually receive the tax credit.

One other introductory concern: The B. C. Government failed in its attempt several years ago to introduce a dividend tax credit for resident B. C. companies. The Bill was ruled discriminatory in the courts because it offered favoured treatment to one group of companies over another. The payroll tax may be challenged in the courts for the same reason.

The GNWT should give a legal opinion as to whether the payroll tax and / or the tax credit is discriminatory.

Review of significant articles in draft **Payroll Tax Act (PTA)**

3 (1) Every employee is liable to pay the payroll tax. Are MLAs considered employees?

The GNWT should clarify that MLAs, Government Ministers, and the Speaker all pay the payroll tax.

What if the employer files their return (PTA article 6), and / or is subsequently assessed (articles 29-31), with the end result being that a refund is given to the employer which should go back to the employees (PTA articles 17, 18)? The Minister may refund the money to the employee without application, or upon application by the employee. The Minister may refund the money to the employer, who then has to refund it to the employee. If not, the employee can recover the money in court.

Where refunds are owed to employees, they should go right from GNWT to employees affected, not to the employees via the employer. An application should not have to be made by the employee. It is another administrative burden for the small business to have to administer the refund to its employees. Furthermore, if it's a seasonal project employees may have gone and be hard to locate.

Amend PTA 17 (3) and 17 (4) such that any amounts of payroll tax that were deducted by the employer from employees in excess of 1% should be refunded directly to the employees from the GNWT.

7 (2) Employer who ceases to have a fixed address shall file their PT return at that time. Those that are leaving the north for good may not bother filing. Those that are seasonal and intend to come back are more likely to.

GNWT should set up agreements with the provinces to collect payroll tax that is owing by businesses who have moved out of the NWT.

There is nothing in the Act that gives the GNWT the right or ability to collect Payroll Tax from southern-based employees / employers. For example: In Rankin Inlet, a Newfoundland-based electrical company had a contract to rewire a Federally-owned building. The crew was flown into Rankin, and put up in a hotel for approximately two and a half months. The company never did establish themselves in the NWT (other than getting a business license). Upon the completion of the job, the entire crew packed their bags and went back to Newfoundland. It was a crew of about 8 people.

How or by what authority does the GNWT have to enforce the Payroll Tax on southern-based employees/employers? We contend that the GNWT would have no authority even if it is enshrined in the Act, because the NWT laws affect employers and employees in the NWT. Southern-based employers/employees do not fall under the jurisdiction of the GNWT.

6 (3), 7 (4) Payroll Tax return has to be verified by a certificate. This means more unnecessary paperwork. Why not just sign a box at the bottom that says "I certify that this is true, etc.", as on income tax forms.

Amend PTA 6 (3) + 7 (4) to eliminate requirement that there be a certificate to verify the correctness of information on a payroll tax return. Instead, simply ask for a signature on the payroll tax form certifying the accuracy of the information given by the filer.

11 (1) Penalties. There are both penalties (Articles 11 to 16) and then Offences and Punishment (57 to 65). One general question here is would the GNWT even bother collecting the penalties and fines? Under the Formula Funding Agreement with the Federal Government, many taxes raised are deducted off the Formula funding amount. As a result, there is no incentive to hire staff and collect these taxes.

Also, the penalties seem relatively low and it raises the question as to whether they will be effective.

Penalty examples:

11 (1) failure to collect -- that is, if the employer delays, omits or forgets to collect the tax. Penalty is 10% of amount that should have been collected; 20% if you had been penalized before for amounts owing in the previous 12 month period. i.e. second time around, you get penalized more.

12 (1) Same penalties for employer's failure to remit as for failure to collect.

13. Failure to file annual return: $100.

14. Failure to file return when requested by Minister (presumably, suspect businesses). $250 fine, 5% of amount of tax payable. How does government know what tax is payable if no return has been filed. Again, government won't be able to get anything off a company that's gone and doesn't intend to come back.

15. $100 fine for failure to provide information.

16. False statements or omissions on returns filed -- $250, and 25% of difference between what employer should have paid and what they paid according to their false statement.

To create an attitude of compliance, penalties should be more substantial. As an alternative, the penalties could be eliminated and the more severe punishments invoked.

PTA penalties (PTA articles 11 to 16) should be raised to create an attitude of compliance.

Re: Failure to collect payroll tax (PTA article 11); failure to remit (PTA a. 12); failure to file a return (PTA a. 13-14); failure to provide any information when required under the PT legislation or regulations; unmaintained records (PTA a. 19):

PTA should provide that any unremitted or uncollected payroll taxes and / or unpaid corresponding penalties (PTA 11 - 16) and / or punishments (PTA 57 - 65) in any year be paid by a business, before that business is allowed to commence business the next year.

11 (3) If an employer failed to collect Payroll tax, they would have to go back later and deduct it from employees. This could be an impossible task. We all know how transient the workforce is here. What if the employees no longer work for the same employer, or for that matter, any employer in the NWT?

PTA Act should force a business that fails to collect payroll tax, to pay the tax out of their own funds. Employees should not have to pay 1% of their payroll after the fact, just because a business omitted to deduct it in the first place.

The employee has no way of keeping track of what payroll tax has been deducted, since a copy of a return is not required to be sent to each employee who has a paycheque from which a deduction had been made. A copy of the Payroll tax return provided to each employee would allow an employee to keep track and anticipate problems.

PTA should be amended to include

-a provision for employees to receive a copy of any payroll tax return filed

-a statement each time a deduction is made from their paycheque for payroll tax

-a copy of any statement of remittance -- to ensure that the employer is remitting what has been deducted.

This would allow employees to immediately bring to the attention of their employer or GNWT payroll tax division any errors in deductions of the tax from their paycheques.

The UNW is concerned that struggling employers may try to deduct penalties (and punishments) from employees. Or, the employer may deduct from new employees payroll taxes that should have been deducted from previous employees.

11 (2) + 12 (2): Interest on amounts owing by the employer must be paid too. Again, this just adds to the burden, and a struggling employer may try to skim off the employees.

All these scenarios may lead to employees launching complaints, which they may have to take to the courts to get their money back. In some cases, it may be impractical for an employee to pursue a time-consuming, costly court case just to get back what may only be a few hundred dollars.

One solution to some of these problems may be that the Government should consider collecting payroll tax up front, not after the fact. In other words, at the start of each payroll year, an estimate is done of the approximate amount of payroll tax that will be owed by a business, and they remit the money at the start of the year. They then deduct the 1% of each employee's paycheque, to get their payroll tax back.

Amend PTA such that the payroll tax is collected up front at the beginning of the year, based on payroll estimates. However, the business should only be allowed to deduct 1% of an employee's paycheque for each pay period. An employee could not afford to pay the whole estimated amount for the year. In other words, the employer pays the Payroll Tax up front at the beginning of the year, and then gets it back 1% at a time off each paycheque of the employees.

17. Refunds. There is no time frame for when the refund must be paid. Note that the Minister may pay the refund without application, but shall do so upon application. The refund should be automatic, and should not have to be applied for. This will reduce the paperwork and alleviate delays.

Amend PTA to automatically pay a refund to a business, without having to receive an application from that business. This will cut down on paperwork. Refunds could be held back if the company was in arrears.

17 (4) There is no time frame for when the employer has to pay excess deductions back to employees. Also, how will the government enforce the paying back of excess deductions to employees? How will employees know too much has been taken off?

As mentioned above, employees should be informed of a refund and details. Refund statements should be itemized with the amount owing to each employee, and copied to each employee affected. Or the GNWT should refund the amount directly to the employees, and not rely on the businesses to do it.

Also, there is no mechanism for employees to object or appeal to a refund they feel is incorrect, because they are not given a copy of the refund statement, even though the refund is made up of excess payroll tax deducted from them. They can only file objections on assessments (32 (2), to be discussed later.

Amend PTA to such that all employees working for an employer who will be receiving a refund for excess payroll tax deducted are informed of this by government.

Amend PTA to state a time frame within which employers have to refund excess amounts of payroll tax deducted back to employees.

Amend PTA to make the refunds go from the GNWT directly to employees, automatically without application.

18 Government may pay interest on the amount of the refund. This should be changed to "shall". It's workers' money that is in question, not the government's. Employees should also get a share of the interest earned by the Government while it held the refund.

Amend PTA such that Government shall pay interest to the person to whom the refund is paid.

Amend PTA to refund interest directly back to the employees on excess amounts of payroll tax taken off employees.

17 (5) Again, assuming the employee knows about it, they can recover excess deductions by going to court -- if they can afford it. As mentioned, the refund should go directly from GNWT to the employees.

20 Audits on businesses: 20 (1) (a) (b) An officer enforcing the act can enter a place "where anything done in connection with any business" to administer or enforce the Payroll Tax Act. This is too sweeping, and may even violate a business person or an employee's rights.

Amend PTA to restrict the power of inspections by an officer enforcing the Act, by requiring that they have reasonable grounds to believe an offence under the Act has been committed.

22 (1) To enforce and administer this Act, the Minister can require any person to provide "any information" or "any document". This is far too sweeping.

Amend PTA to restrict 22 (1) to "any information that the Minister has reasonable and probable grounds to believe is proof of an offence under this Act".

23 (5) (7) This section could also be abused. It allows a person executing a warrant in the enforcement of this Act, to seize not only the document or thing referred in the warrant, but "any other document" that the person also believes is evidence. This could lead to the scenario outlined ahead:

An Officer seizes everything on the premises of a business. A judge decides later that most of the documents are not relevant, so the business gets it back. It makes more sense to act within the law in the first place, and seize only the relevant document or documents that are specifically named on the warrant. The article as it is currently worded could be abused by the GNWT. "You pay or we'll come and seize everything."

Eliminate Article 23 (5) from PTA.

23 (8) You can get copies of seized documents. But no time frame is given as to when these can be obtained "at the expense of the Minister."

PTA should allow person to get copies of seized documents within a reasonable period -- say 14 days.

25 (2) The Minister can require someone carrying on business in NWT to provide any document located outside NWT. The onus should be on the Government to prove the document is relevant. If you object to a notice to supply such documents (25 (4)), you can apply to a judge. The Minister may go on a "witchhunt" of a business, by requiring them to provide documents that are impossible to get.

PTA, article 25 (2) should be restricted to documents that are proven to be relevant to enforcing Act.

26 Solicitor-client privilege: The Minister can (22 (1)) require any persons to provide any information needed to administer and enforce this Act. An officer enforcing the Payroll Tax Act can go to a lawyer and attempt to seize documents. The lawyer can claim solicitor-client privilege. If so, the documents can be seized, copied, and then sealed. A lawyer can apply within 14 days to have a judge decide the matter. 26 (10) No costs can be awarded. So, the Government could go and clean out a lawyer's office, claiming that the documents related to a business that had breached this Act. Then a judge could decide that most of the documents were not relevant. However, the lawyer would have to pay the costs, as the judge has no power to award costs.

Delete PTA article 26 (10).

28. Government can't be sued for seizing your documents and then accidentally destroying them. Again, witchhunts can be conducted, and the government is immune from prosecution. This may be a typical clause for an Act such as this where information can be seized, but the problem would be reduced if only relevant information could be seized in the first place. This concern has already been raised above.

29 Assessment. It is important for the government to create among the business community an "attitude of compliance" to paying their payroll tax. Otherwise, a lot of administration costs will be incurred determining how much payroll tax is owing, and then collecting it.

29 (2) An assessment may be made at any time on a business that has filed their yearly return in a fraudulent or misrepresentative fashion, for a period of six years after the filing of the bad return. To give an example, say the misrepresentation or fraud dealt with the business saying they had deducted payroll tax when they hadn't. What is the chance of a company collecting un-deducted payroll tax, even a short time after the workers have finished their work and left,

let alone six years after? Similarly, if the company deducted excess payroll tax from workers, even if workers knew about it and could prove it, unless they can get their money back quickly, chances decrease that they will as time goes by. The solution, as already raised above, is to collect the payroll tax up front.

30 (5) If you're assessed, you have to pay the tax within 21 days whether or not your agree with the assessment. There is the potential that the government could arbitrarily assess a company for a high amount of payroll tax that events might later prove aren't really owed.

Amend PTA such that taxes owing according to an assessment will not be paid until all objections and / or appeals to the courts are exhausted.

30 (6) Despite the 21 day period in 30 (5), the Minister can order immediate payment of payroll tax after an assessment, for various reasons, including failure to file a return. The same concern as above arises -- what if there is an objection or appeal? These processes should be exhausted first.

31 The Employer has to give employees a copy of an assessment within 14 days. This is a beneficial requirement. As already mentioned, returns should also be copied and sent to employees so they can see if the correct amount of tax has been deducted.

Objections and Appeals.

32 (1) Businesses receiving an assessment can appeal within 90 days, but you still have to pay up front any assessed amounts. Government could bankrupt a business like this. This is the same question as above. Objection and appeal periods should be exhausted first, before assessed amounts of payroll tax have to be paid.

32 (2) An employee can object to an assessment within 90 days, but only "to the value assigned to remuneration received or deemed to be

received". The concern here is if the employer claims that the employee earned much more than they did, and then takes 1% of that inflated amount.

Amend PTA article 32 (5) to specifically allow for objections by employees based on amounts of payroll tax deducted from their cheques, not based on amounts of pay they received or (especially) deemed to be received.

Otherwise, they'd be powerless to object in a court to amounts of payroll tax deducted that they disagreed with.

32 (5) This article is beneficial to workers, since an employer may be negligent in providing employees with a copy of the assessment (and, in the Bill as it is worded now, the employer doesn't even have to provide employees with copy of the return). Hence, the time deadline could easily slip away before employees could file their objection.

The Minister has a duty to reconsider an assessment (32 (6)) and change it, but under 32 (6), the Minister has no time frame in which to respond. The time frame should be short -- within 14 days -- as employees need any additional pay that has been incorrectly deducted due to an incorrect assessment. Under article 32 (7), the Minister has to inform the objector what corrective action has been taken by the Minister, but no time frame is given in which a response is due.

Clarify PTA articles 32 (6) + (7) so that the Minister has to respond to the person and other persons affected by the assessment (i.e. a business and its employees) of the results of the reassessment within a short period of time -- say 14 days.

33 (1) says an employer or employee can appeal to the Supreme Court to have assessment vacated or varied, if the Minister sticks by his original assessment, or has let 90 days pass without responding.

This is why it should be incumbent on Minister to inform the employer or employees ASAP of his decision. Otherwise, you have to wait 90 days (three months) before you can do anything, because you don't know for sure if Minister is going to respond. This delay is unjustified. With the low wages already paid workers, they cannot afford to wait three months for money owing to them if their employer has deducted too much payroll tax.

Amend PTA 33 (1) such that the Minister has 14 days to respond to appeal.

If the Minister does get back to you within the currently proposed 90 day period, you have 90 days to launch court appeal of his reassessment. You can have this time frame lengthened through an application to Supreme Court (33 (6)), which is a fair provision. The Minister then has another 60 days to respond to the appeal when it is filed in court.

As stated above, long delays could bankrupt a business, or drive an employee out of the NWT due to an overdeduction of payroll tax. If the Minister chooses not to respond to an employee's objection, the employee has already waited three months. Then they go to court, where the Minister has two more months to respond. So an employer or employee could wait up to five months to get money owed to them, which is unreasonable.

Amend PTA 34 (1) such that Minister has 14 days to respond to an appeal when filed in court.

37. If the employer or employee appeals to the courts, they have to pay the tax in the meantime, but if court decision says they get money back, they get it back with interest. However, no time frame is given. Also, the employees have to trust the employer to make the refund back to them. The employees are not even notified of the court decision.

Amend PTA article 37 such that GNWT has 7 days to refund to a business or directly back to employees, excess amounts of payroll tax collected and / or deducted, and any additional interest or penalty imposed and paid on those taxes.

Amend PTA to ensure that copies of court decisions are immediately provided to employees affected.

For instance, if a business appealed to the courts and got money back from GNWT for an incorrect assessment, it could be five months after they objected. This could make it difficult for the business to refund excess payroll tax to employees, especially if employees have left the north. Also, with the Act the way it is written now, the employees won't even know about the court decision.

38 Administration and enforcement.

38 (4) The Minister can extend the time for filing a return, providing information, or paying taxes, but no criteria are listed for making an extension. This could lead to favourtism for or against certain businesses.

38 (6) The Minister can waive penalties or interest, but has to get approval of Cabinet.

Amend PTA 38 (4) to set out specific criteria under which the Minister may grant extensions for filing returns, providing information, or paying payroll taxes. This will ensure consistent treatment to all businesses.

39 (1) Every employer has 21 days after first paying an employee, to register for purposes of paying payroll tax. 39 (2) Existing companies as of May 1, 1993 have until June 1. What if they don't? There is a $250 fine for a business failing to register (39 (40). This may not be substantial enough to pressure some fly-in fly-out companies to

register. If the GNWT is serious about getting every business to pay, they have to get businesses to register for the tax as a condition of doing business.

Amend PTA 39 to require registration for payroll tax by a business as a condition that has to be satisfied before the business can start operations.

Registering should be a condition of getting a business licence each year (these have to be renewed before the start of each fiscal year on March 31.) The only problem is that if you are operating a business in a hamlet, village or city that has bylaws, those local bylaws require a business license, and in most cases a business doesn't need a Territorial business license. However, since the GNWT provides money to every municipality and hamlet, MACA could arrange with each community to require registration for NWT payroll tax as part of the process of getting a business license for that community.

41 Enforcement

45 (2) Notice of garnishments. Where the minister "has knowledge" or "suspects" that a third party is going to make a payment (such as interest, rent, remuneration, dividend, annuity, periodic payment) to a business that owes payroll tax to GWNT, the Minister can make the third party make the payment to the GNWT to cover the payroll tax owed by the company.

Mere "Suspicion" is not sufficient grounds to compel action.

45 (3) Similarly, if a lending institution or "a person other than an institution" is going to loan money to a business that owes payroll tax, the Minister can demand that the lending institution or lending person pay the money to the GNWT to offset payroll taxes owed by the business. All the Minister has to do is "suspect" the loan is going to take place.

Hence, even on a suspicion that could later prove to be unfounded, the Minister can go after a lending institution or even a person who was going to loan an offending business money, and demand that the money be turned over to the GNWT as payroll tax.

45 (6) Consider a scenario: **B** is a business, say a landlord. Individual **i** rents a room in one of **B's** buildings, and **i's** rent is due for the next month. If **B** owes payroll tax, the Minister can require **i** to pay part or all of their rent to the GNWT to take care of **B's** payroll tax debt. The problem with this is that **i's** rent isn't going to be paid as a result, and **i** may get evicted from their apartment.

Further, if **i** does not do this (45(8)), **i** is liable to the GNWT. According to 45 (11), the Minister has three years to go after **i**.

Delete PTA article 45.

If this article is not deleted, third parties must be protected from disputes between the Government and a business that owes payroll tax. The government must not be allowed to take a payment by a person to a business, and divert it to pay that business' payroll tax. If the government does require this, it could result in hardship being experienced by the person (for example, if the person was making a rent payment and that money was taken by government for payroll tax. The person's rent is now owing.)

48 (1) Where you fail to pay an owing amount of payroll tax, the Minister can give you 15 days notice and then seize your goods and chattels and sell them. In other words, the Minister can wait until you are out on a month's holiday, move in, seize all your goods, sell them, and you get back and everything is gone.

Furthermore, the Minister might take this action based on an incorrect assessment, before you have had a chance to file and objection or an appeal. Once your goods have been seized, you have 10 days to pay payroll tax before your goods are sold in a public auction.

None of the powers outlined in 48 (1) or (2) should be allowed to be exercised, before the objection and appeal period is exhausted (90 days after assessment for objection; you can appeal to the Supreme Court up to 90 days after that, if Minister fails to respond to the objection. Or, you can appeal up to 90 days after assessment is revisited by Minister.)

Amend PTA article 48 so that chattels cannot be seized / sold until the objection and appeal period are exhausted.

48 (4) Any surplus from sale of your chattels gets returned to you, but no time frame given.

Amend PTA article 48 (4) to provide a short time frame (i.e. 7 days) within which surplus from sale of person's chattels gets returned to them

49 (1) If the Minister suspects you are about to leave Territories, the Minister can demand all payroll tax and associated owing monies (fines, penalties) be paid forthwith (immediately).

Again, all that is required is the Minister's suspicion before he can take this action. Or, under 49 (2), the Minister can seize all your chattels within 15 days, and sell them within another 10. A subsequent objection or appeal could prove that the Minister's suspicion was unfounded, but by then it is to late.

Amend PTA articles 49 (1) + (2), to tighten up the criteria under which Minister can act, such that it is a requirement that the Minister has "reasonable and probable grounds" -- not merely "suspects" -- that a business is going to be leaving the NWT, before action can be taken against that business.

50 (1) Directors are liable for payroll tax/interest/penalties owed by a corporate body -- which seems good on the surface -- but 50 (2) has restrictions, and 50 (3) is an apparent total disclaimer -- a director is not liable where they exercised care, diligence and skill. This is basically a complete disclaimer and undermines this article.

There are other problems as well with this section. What is meant by a "director"? For example, a company has a Director of Finance and Administration. However, this "director" takes their direction from a committee of executive officers. If those officers make a decision to pay or not pay an amount of payroll tax, and that amount proves to be incorrect, should these directors be responsible?

Also, assuming a definition of director is clarified, what if one director leaves a company a week after the due date for remitting payroll tax (the company was granted an extension). Let's say a new director comes in and fails to pay the tax, or the company folds. Is the first director (now a former director) responsible to pay that tax? Depending on the size of this company,the amount of payroll tax owing could be substantial.

One thing is clear -- workers should not be responsible for payroll tax that a business failed to deduct or pay.

PTA 50 (1) (2) (3): Clarify the definition of director.

Once this is done, ensure that directors of a corporation are liable for payroll taxes owing by their corporation, not the employees.

53 -- General. 53 (1) The Employer can withhold "any money" from employees and claim that the employer is intending to comply with this Act. An Employer should not be allowed to withhold anything more than 1% of payroll, and this should be reflected on cheque stubs on employees.

Amend PTA article 53 (1) such that employees must be informed by the employer of all monies withheld or deducted from employees in compliance or intended compliance with this Act. Clarify that only 1% can be withheld by the employer.

55 (1) Workers cannot get information they may need to verify that the correct amount (and not more) payroll tax has been deducted -- unless they get the consent of their employer (which is unlikely, especially if too much has been taken off).

As mentioned above, employees should be provided with copies of returns, the same way they are provided with copies of assessments; and should also be provided with copies of objections from employer and / or employees, appeals by employer and / or employees, court decisions, and the Minister's response to objections -- these should be copied to all affected employees. Employees should be informed every step of the way.

Amend PTA article 55 (1) to allow employees to access any and all information they need pertaining to the deductions from their payroll for purposes of payroll tax – including copies of returns, copies of assessments, copies of objections by employers and / or employees, appeals by the employer and / or employees, the Minister's response to an objection, and court decisions.

57 - Offences and punishment

57 (1) Failure to file a return -- fines between $1000 and $25,000, and / or jail term not more than 12 months.

58 (1) evading tax -- fine between 50% and 100% of tax owing and / or jail term not more than two years.

58 (3) Same for people wrongfully attempting to get refund.

59. Fine for failure to pay, collect or remit tax. Same fines as above.

60. Same fines for failure to register.

61. Breaching confidentiality -- guilty of offence not more than $5000 and not more than 12 months in jail.

62. Failure to comply with any provision of Act where no penalty is stated - can be fined not more than $1000.

The problems with these penalties are similar to those encountered in collecting fines. We mentioned these problems above. If the payroll tax was collected up front, these problems would be avoided.

69. Procedure.

69 (2) An assessment is considered to have been issued as of the day of mailing. This is too short a time frame, given the long periods of time it takes mail to travel around the NWT. This is a concern, especially when the Minister can seize your assets within 15 days of sending out an assessment. You may have only a few days to respond, once you receive the assessment in the mail. This is not enough time.

Amend PTA article 69 (2) to make the date when assessment is considered to have been issued 14 days after the day of mailing.

Conclusion

There are a lot of drastic, sweeping, "draconian" measures in the Payroll Tax Act. This indicates that the GNWT may be concerned that businesses may not pay. If the payroll tax was estimated and collected at the start of a fiscal year, many collection problems would not arise. Otherwise, the GNWT is going to spend a lot of money and time chasing employers for unpaid payroll tax. Employees who will have too much payroll tax deducted, may not be able to collect it. This would be either because they don't have the information needed, or it is impractical to pursue the matter -- in terms of the time involved, or the court costs.

The GNWT just recently increased the Territorial tax by 1%. They have proposed substantial increases in their Housing Strategy Policy, which not only affects employees in staff housing, but all residents and businesses in the NWT. The north is also deep in a recession, with little end in sight. This has been brought about largely by the economic policies of the Mulroney Conservatives. These policies have brought inflation rates down to 1 to 2%. A further tax burden in the NWT will simply require a higher wage increase to take up the slack.

The Union of Northern Workers urges the Legislative Assembly to either not proceed with this Bill, or defeat it once if the Government introduces it in the Assembly.

We thank you for considering our proposals and concerns.

Union of Northern Workers
UNW

Box 1116, Yellowknife, N.W.T. Tel. (403) 873-5668

NEWS RELEASE

UNW PR 92-17

For Release: Sept. 17/92

UNW PRESIDENT: "PAYROLL TAX WON'T DO THE TRICK"

YELLOWKNIFE (Sept. 17, 1992): UNW President Darm Crook says the GNWT's new payroll tax may start to plug the leakage of northern dollars going south. "But the tax needs some serious fine-tuning."

The payroll tax is intended to be levied on all workers earning wages and salary in the north. Northerners will then be given a tax credit, so that workers at "fly-in, fly-out" worksites end-up paying the tax. As it is now, they take all their income south and pay taxes there. "The payroll tax should not just be levied on workers," says Crook. "**It should be expanded to include all investment income, capital gains, business profits, dividends, and other income earned by southern businesses operating in the NWT.** If the GNWT taxed those monies, they'd generate a lot more of the revenue they need. Labour has for a long-time argued that the fly-in, fly-outs should be taxed. But why just tax the workers?"

An administrative nightmare: The tax misses a lot of its intended targets. "What about a worker with a southern-based residence, whose paycheque is earned in the north, but issued from the southern office? How will the GNWT go to a southern company and have them remit a payroll tax for the employee who worked in the NWT?"

Crook adds: "The GNWT claims that they will earn $3.5 million revenue from this tax. They have not released any figures on the administration cost. Administration could nullify any gain." Also, "there's no sense of going through all the bureaucracy of taxing every paycheque in the north, and then giving a cash credit back to northerners. Why not just exempt northerners from the tax?"

Tax credit will disappear over time Northern workers who earn more than $55,000 remit more payroll tax than they get back in credit. Over the long run, "As incomes rise through cost of living increases, fewer and fewer northerners will be able to claim the tax credit. If this tax remains in place, both the $55,000 income level and the $645 ceiling on the tax credit must be indexed according the cost of living."

The UNW President warns: "In several years, the GNWT may hit dire financial straits, and cancel the tax credit, and increase the payroll tax. Just as the Tories have done with the GST, the Territorial Government is putting the payroll tax system in place now, so they can tinker with it later."

- 30 -

For more information contact Darm Crook (403) 873-5668.

The UNW is a component union of the Public Service Alliance of Canada

**Consulting Engineers of
the Northwest Territories**

P.O. Box 1962 • Yellowknife, NT • X1A 2P5
Phone: (403) 920-4055

January 21, 1993

Government of the Northwest Territories
Legislative Standing Committee on Finance
P.O. Box 1320
Yellowknife, N.W.T.
X1A 2L9

Attention: Mr. Jim Antoine, Chairman

Dear Committee Members:

Subject: Proposed Payroll Tax Act

In response to your request for written submissions regarding the above noted Act, the Consulting Engineers of the Northwest Territories wish to make the following comments:

1. We recognize that the intent of this Tax is to address the current situation where southern employees entering the Territories for short term employment or even long term shift work on a fly in fly out basis are not taxed in the Territories. We wish to point out that these employees usually do not receive any benefits other than employment from the NWT, therefore it is difficult to see why they should be specially taxed.

2. Since the Tax is to be levied against employees but to be collected by employers, we foresee difficulty in encouraging employees from "southern" offices to work on northern projects, because of the increased Tax burden. While this may be consistent with the GNWT's objective of increasing northern employment it should be recognized that Consultants offer specialized expertise which is not available locally. This would result in the employer paying the tax and recovering it from the client.

3. We foresee the Tax to be cumbersome to administer and enforce. Consulting Engineers have employees who come north for short periods, often as little as a day at a time, and may actually be working part time on southern projects during the trip. In addition, southern employees work on northern projects without coming north; this Tax could result in this being more cost effective. Further, many of the northern engineering consultants are involved in southern projects. In which situations would the Tax be payable? Again, costs would be passed on to the consumer in higher fees.

4. Since there are a number of self-employed engineers, geologists and geophysicists in the NWT, who we understand will not be subjected to this Tax, this would give them an unfair advantage over larger companies.

These are but a few of the inevitable problems that such a Tax would produce for the Consulting Engineers as well as the Government of the Northwest Territories.

The whole idea of the Tax seems to run in the face of the GNWT business incentive programs and should be reconsidered at the present time when many companies are struggling to find enough work to keep them busy, let alone make any profit.

We appreciate the opportunity of being able to comment on the Tax but suggest that such a sweeping legislation should be brought before the population as a whole for a vote. In general you may assume that our Association would, if given a chance, vote against the proposed tax.

Yours truly,
Consulting Engineers of the Northwest Territories

for Chris Robinson, P.Eng.
Director and Past President

CGA
NORTHWEST TERRITORIES

Certified General Accountants' Association
of the Northwest Territories
P.O. Box 128
Yellowknife, N.W.T. X1A 2N1

Telephone: (403) 873-5620
Facsimile: (403) 873-4469

February 4, 1993

Northwest Territories Legislative Assembly
Standing Committee on Finance
Yellowknife, N.W.T.
X1A 2L9

Attention: Doug Schaurte, Committee Clerk

Dear Mr. Schaurte:

Re: Proposed Payroll Tax

We thankyou for having given us the opportunity to review this legislation. Below we have mentioned some items which we feel may deserve a little more attention or consideration. The comments are made in order of the act with some general comments at the end.

Regulations:

> There are several instances where the act refers to the regulations for more detail. In these instances we feel that there are some possible items to which we would require more detail before offering any comment. There was a definite need for more information as you will find further on.

Page 4, item 3.(4)

> When the value of remuneration received is in question, how would the Minister assign a value to it and what would the provisions be in the case of a proprietor. There should be some guidelines.

Page 4, item 4.(2)c

> While we respect the intent here we feel that the purpose is perhaps lost and the possible enforcement of this section would be very difficult, if not harmful to Northern companies hiring southern subcontractors.

Page 5, item 4.(3)

> This will be very hard to enforce.

.../2

Page 5, Item 6

We have no indication of what the prescribed manner is or the prescribed time. We suggest that this not be done by individual employee on a monthly basis.

Page 6, item 6.(4)

We don't feel this is a good idea without guidelines.

Page 6, item 7.(2)

Why should an early return be filed if there is no employee and the business is still in operation.

Page 7, item 8.(1)

We do not see the purpose behind this clause.

Page 8, item 10.

We feel the wording here is too loose and does not protect the individual.

Page 8, item 11.(3)

There should be some limitations here as normally, if an employer makes an error, he should be the one responsible for the payment. The way this is worded, an employee could end up paying for mistakes made two years earlier.

Page 8, Item 12

Is late payment deemed to be a failure to pay? If so these are rather harsh interest assessments.

Page 9, item 13

It looks here like the employer will be responsible for two types of T4's at the end of the year. The added administration cost is the employer's alone. This will not be well received.

Page 10, item 17.(2)

How can you penalize an overpayment?

.../3

Page 10, item 17.(4)

This should not be an employers function. It should be reconciled at year end on the same basis as federal tax refunds directly to the individual.

Page 11, item 17.(6)

We trust there will be no penalties in this instance.

Page 11, item 18.

Does the Minister have a choice with respect to interest here? The wording suggests so.

Page 12, item 19.(5)

There should be some limitations as to what the Minister can require here.

Page 12/13, item 21.(1)

Where the inspection privileges extend to properties or processes we feel that this again leaves no protection for the employer and there should be some guidelines as to what an officer can do here.

Page 14, item 22.(1)b

This clause should read "any document which relates to the act." Otherwise it is again infringing on the employers individual rights.

Page 23, item 27.(1)b

There should be more attempt than this required to return property.

Page 23, item 27.(3)

This does not seem fair and would not be well received.

Page 24, item 30.(1) and (2)

The Minister and his staff should be accountable.

Page 25, item 30.(5)
People generally have a problem accepting this which is evident in dealings with Revenue Canada.

...\4

Page 26, item 31.

We see no need for this clause.

Page 27, item (7)

There should be a time limit which applies to the Minister.

Page 28, item 34.(1)

The time limit should stand. There should be no provision for extensions.

Page 31,item 39.(1)

We feel it would be less of an administrative burden to the employer if this was automatically done as part of the PD7A filings rather than needing to file 2 monthly returns.

Page 32, item 42.(1)

We really don't like this clause. A lot of people don't have any additional security and it should not be required.

Page 34, item 45.(2)

This seems unreasonable as the Minister is getting third parties involved with an employers problem and expecting them to cover any legal costs which may be required.

Page 34/35, item 45.(3) b

This will not work in the North. There are too many government funded projects which would be jeopardized in this case and which could affect the employment of many Northerners.

Page 35, item (4)

Secured debtors are so secured for a reason and taking a payment due them may put the employer out of business. Secured debtors should be left out of this section.

Page 38, item 49.(1)

This gives the Minister too much freedom.

.../5

Page 40, item 51(1)

Are you passing liability on to individual members here? If so, this appears to be unreasonable.

Page 44, item 58.(3)

The penalties are excessive. The idea is not to make money on penalties, just get the funds you are due.

General

We did not see at any place where northern residents get a credit, northern living allowance or other break although the intent announced publicly was to tax the southern people working in the North. Perhaps we are missing a document here.

The Act appears to be taking on a big bite and paralleling itself with Revenue Canada. We feel that is above and beyond the scope and intention of this tax and perhaps a more simple tax would have sufficed.

The employer has been made totally accountable for the possible errors of the Minister as well as subcontractors. We feel the Minister should be accountable for his staff and decisions made. The act has left this out.

The employer is not reimbursed in any part for the added administration costs. This is as bad as taxing the employer who is already struggling with municipal, WCB, school and other tax increases.

You may wish to refer to the recent Revenue Canada/ court decision with respect to seizure of records.

It appears that our system will parallel Quebec's where the employer and the individual end up filing two separate sets of returns. We suggest that it would be a good idea to find ways of combining these returns.

We really wonder if the GNWT will recover enough with this tax to cover the added administration costs which will be incurred on implementation and enforcement of this act.

Yours very truly,

Penny Fair, CGA
president

norman wells

Mr. Jim Antoine, Chairman
Standing Committee on Finance
Government of the Northwest Territories
Yellowknife, N.W.T.

Dear Mr. Antoine:

PROPOSED NORTHWEST TERRITORIES PAYROLL TAX

At the regular meeting of council, held on January 26, 1992, the Council for the Town of Norman Wells reviewed information regarding the proposed payroll tax.

The Council were unanimous in their support of this initiative.

Norman Wells has a highly transient workforce and residents have long been concerned that the benefits of these northern jobs are not staying in the north.

This proposed policy will target these people without hurting the true residents, and my council endorses that philosophy.

Yours truly,

Kevin Diebold
Mayor

cc. Hon. Nellie Cournoyea, Premier

Hon. Stephen Kakfwi, M.L.A. - Sahtu

Town Office
Box 5
Norman Wells NWT
X0E 0[illegible]

[illegible] N.W.T.

PH: (403) 587-2238
FX: (403) 587-2678

IQALUIT CHAMBER
OF COMMERCE

BOX 1107
IQALUIT, NT
X0A 0H0
TEL FAX 819 979 4095

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Standing Committee
on Finance
Legislative Assembly
Box 1320
Yellowknife, NT
X1A 2L9

January 28, 1993

Attention: Mr. Doug Schauerte, Committee Clerk

Dear Sirs,

Bill 8 Proposed Payroll Tax Act

The Iqaluit Chamber of Commerce recognizes that the GNWT is faced with the task of generating revenues. However, we consider one section of this proposed legislation to be totally unworkable.

Section 4(2) states:

> "(2) Where a Territorial resident enters into an agreement with a non-resident employer under which work is performed or services are provided during a year for the benefit of the Territorial resident by an individual employed by the non-resident employer, the Territorial resident shall be deemed to be the employer of the individual and the individual shall be deemed to be an employee of the Territorial resident during any period in the year when the work is performed or the services are provided, if
>
> (a) the non-resident employer does not have a fixed place of business in the Territories during the period;
>
> (b) the work is performed or the services are provided in the Territories; and
>
> (c) the work being performed or the services being provided by the individual for the benefit of the Territorial resident are of a nature that, in the opinion of the Minister, could be expected to be carried out by an employee of the person for whose benefit the work is performed or the services are provided."

To our understanding this means, if an NWT business contracts a southern-based firm to perform a task for them (Eg.- a retail store has a southern firm send someone to Iqaluit to service their coolers and freezers), then the person the southern firm sends to do the work is "deemed" an employee of the Northern retail store and the Northern firm must remit 1% of his/her wages to the GNWT.

This creates the following difficulties for us:

i) When a Northern company contracts a southern firm to perform a service, we do not know what percentage of the invoice we receive is wages, what is materials, transportation, accommodation or meals. And what is the southern firm's mark up or profit?

ii) If we can determine a wage figure, then we must remit 1% of it to the GNWT. If we then subtract it from the southern firm's invoice they can legally take us to court and force us to pay their firm the 1% as we legally owe it to them. This means this is a tax on GNWT business and not a tax on southern-based workers.

iii) John Pollard met with our Chamber and the Baffin Regional Chamber on November 4, 1992, and he assured us then that the proposed legislation would not be onerous for NWT small business and would not penalize them financially. The Payroll Act now before the Legislative Assembly is onerous to small businesses.

We consider this one section to make this Act totally unworkable. Once this major obstacle is removed then we would be pleased to provide further input to this Act in the hopes of creating a workable and beneficial piece of legislation. However, such input now is futile when the existing draft legislation is so marred.

Yours truly,

Marny Twigge

per Steven Roberts
President

APPENDIX 3

Northwest
Territories

JAN 12 1993

Mr. Jim Antoine, MLA
Chairman
Standing Committee on Finance
Government of the Northwest Territories
P. O. Box 1320
YELLOWKNIFE NT X1A 2L9

Dear Mr. Antoine:

Payroll Tax Act

As requested in your 17 December, 1992, memorandum, attached are responses to the list of questions you submitted.

Sincerely,

John D. Pollard

Attachment

[illegible]

1) ***What are the objectives of the tax?***

The payroll tax has two objectives:

a) to raise revenues to help reduce the deficit and provide funding for government programs;

b) to obtain tax revenues from individuals who work in the Northwest Territories but who do not pay income tax here.

2) ***Why have you chosen to introduce the new tax now?***

Tax increases are necessary in order to reduce the deficit and pay for government programs. The federal government has drastically cut our grant over the past few years, and although most of the projected shortfall has been covered by reducing expenditures, some tax increases are necessary.

The problem of workers employed in the Northwest Territories but paying taxes elsewhere is ongoing. It is timely to address this issue when our revenues are coming under increasing pressure as a result of cutbacks to the federal grant.

3) ***What are its complexities and associated risks and how have these been mitigated?***

The tax is a very simple one. This has been achieved by taxing only employment income, and exempting business income, investment income, pension income, and all other non-employment income. Increasing the base to cover anything more than employment income would increase the complexity significantly, because such individuals would then have to file a return calculating tax payable. At present only employers would file returns.

The largest element of complexity is the necessity for the Government to establish a collection and audit system. There should be no problem in administering the Act for employees of Northwest Territories-based employers since these employers can be easily audited. By far the largest proportion of the payroll tax will be paid by employees of governments (federal, territorial, municipal and other large employers) and collection problems should not arise. Although out-of-territory employers will require more attention by tax auditors, it is not expected that non-compliance will be a significant problem. It should be recognized that there will always be some amount of non-compliance as some individuals will attempt to evade the tax. The amount of non-compliance should be less than for other taxes such as income tax. The proposed Payroll Tax Act contains penalties to ensure compliance with the provisions of the Act. It is expected that, in the majority of cases, no collection problems will be encountered and that employers will be generally cooperative.

Registration requirements have been kept as simple as possible to minimize administrative burdens on employers.

Some complexities of this tax are:

a) associated with the definition of employers, employees and

b) the difficulties of collecting the tax from employees who work only a short time in the Territories. Similar problems are experienced by the WCB. For example, employees from other provinces who attend short conferences in the Territories, consultants on small contracts or a director of a company who flies in for one day to inspect a property held in the Territories.

With respect to (b), problems will be minimized by keeping the definitions very broad. It is recognized that not all employers will comply but it will not always be in the Government's best interest to pursue the collection of the tax. For example, the tax due for 1 day of an employee's $50,000 annual salary is approximately $1.92 ($50,000/260 x 1%).

Setting minimum time periods for working in the Northwest Territories has been considered but this process would increase the complexity for both the GNWT and employers. When some experience with this tax has been acquired, this aspect of the tax will be reviewed to determine if time periods should be defined.

4) *What are the possible constitutional implications?*

The payroll tax is a direct tax on employees working in the Northwest Territories, and is legal under the Northwest Territories Act. The federal government has expressed an opinion to us that if we were to implement a tax credit whose sole purpose is to refund the tax paid to Northwest Territories residents but not to other Canadians, the combination would be unconstitutional. A tax credit which is not related to the tax would not fall into the same category. Other provinces have low income tax credits which are provided only to residents, although no province has one similar to the proposed Northwest Territories Cost of Living Tax Credit.

5) *In what instances will this tax and the tax credit amount to a burden on NWT persons (i.e. be a net cost)?*

This tax will have a net cost to most taxpayers with incomes over $55,000 annually. Some lower income taxpayers may also pay more if they have employment income but have higher than average deductions which reduce net income. Such deductions would include pension plan contributions, RRSP premiums, union dues, tuition, child care, interest expense, and alimony. The examples below compare the tax and credit for three taxpayers with the same income.

	A	B	C
Employment Income	$55,000	$55,000	$55,000
Other Income	$ 4,000	$ 1,939	$ 0
Payroll Tax	$ 550	$ 550	$ 550
Deductions:			
Pension	$ 0	$ 1,828	$ 2,995
RRSP	$ 0	$ 1,059	$ 2,000
Union Dues	$ 0	$ 332	$ 774
Child Care	$ 0	$ 229	$ 2,000
Total Deductions	$ 0	$ 3,448	$ 7,739
Net Income	$59,000	$53,491	$47,261
Tax Credit	$ 593	$ 551	$ 503

In the case shown above, individual A does not belong to a union or have a pension plan but has $4,000 in other income, which would not be taxed by the payroll tax. This individual will be slightly better off.

Individual B is reporting the average amount claimed for other income and deductions by individuals with $55,000 in employment earnings. This individual will get about the same credit as he or she pays in payroll tax.

Individual C is a government employee who in addition to the regular deductions contributes to an RRSP and claims child care expenses. This taxpayer will be slightly worse off.

6) *In what instances will this tax and the associated tax credit yield a benefit to NWT persons (i.e. credit exceeds the tax)?*

Most taxpayers with incomes below $55,000 a year will benefit, particularly if they have few deductions. Taxpayers with little or no employment income and significant income which is not taxable for purposes of the payroll tax, such as business income, pensions, investment income, or unemployment insurance, will be better off.

7) *How much time and money has been spent to develop this new regime?*

The table below shows an estimate of the time and money spent to date on the payroll tax. The column labelled Fixed Costs shows the estimated value of staff time spent on the tax. This is not a cost outlay for the government as these individuals would have been paid in any case, but work on the payroll tax has meant that other tasks may not have been done.

The table headed "Additional Costs" shows those costs, such as consulting contracts, which would not have been incurred without the tax.

	Fixed Costs	**Additional Costs**
Tax Administration		
- Salaries (approximately 560 hours)	$22,400	
- Tax Information Officer (approximately 150 hours)		$ 4,274
- Consulting		13,000
Accounting Operations		
- Salaries (approximately 30 hours)	1,200	
Management Accounting Services		
- Salaries (approximately 116 hours)	4,640	
- Consulting		1,800
Fiscal Policy		
- Salaries (approximately 450 hours)	18,000	
Justice		
- Salaries (approximately 845 hours)	33,800	
- Consulting		10,000
Total	$80,040	$29,074

8) ***To what extent has the Minister sought input into this new regime and what has the response been?***

The idea of a Northwest Territories payroll tax is not new. The possibility of a payroll tax has been the topic of discussion for several years although a decision was not taken to proceed with implementation. The payroll tax was outlined in the "Northwest Territories Tax Options" document published by the Department of Finance in August 1988. The tax was described as a method of taxing the income of non-resident workers in the Northwest Territories. The document received very wide distribution. Copies were provided to all MLA's, mayors, band councils and businesses throughout the Northwest Territories. Responses received suggested that a payroll tax could be an effective way of taxing non-resident income if some other method could be devised to offset the impact of the tax on Northwest Territories employees who also pay income tax to the Northwest Territories.

9) *To what extent has the department ensured that the technical aspects are "user friendly"?*

The department has made every effort to simplify the technical aspects. For example, wherever possible information required from employers for income tax purposes will be used for payroll tax purposes. Regulations will be implemented which will limit, to the extent possible, any additional administrative burden to employers.

After one year of operation, consideration will be given to surveying some employers to determine if improvements to the technical aspects can be made.

10) *What was this Act tailored after (i.e. another jurisdiction)?*

Because the proposed Payroll Tax Act will tax employees while those of other jurisdictions tax employers, the Act is not specifically tailored after any other Act. However, both Ontario's and Manitoba's Acts were used as models in drafting the Payroll Tax Act.

11) *Is it successfully working elsewhere?*

Manitoba, Ontario, Quebec and Newfoundland all have payroll taxes. These differ from the proposed Northwest Territories Payroll Tax in that they are levied on employers while the proposed Northwest Territories tax would be levied on employees. The federal government levies payroll taxes on employees (UI, CPP) as do federal and state governments in the U.S.A.

12) *What problems are foreseen by the department and action taken?*

The department does not foresee any major problems implementing the tax. The department has attempted to simplify the administrative aspects, wherever possible, and will take advantage of new computer technologies. However, to correct unforeseen problems, the process will be under close scrutiny over the first several months after implementation.

13) *Will every employer not resident in the NWT who pays remuneration to an employee for work done in the NWT be affected?*

Yes. Every such employer will be required to register with the Government of the Northwest Territories, collect tax from those employees performing work in the Northwest Territories and remit the tax to the Government. As mentioned above, ensuring compliance from non-resident employers is not as simple as with resident employers. It is not possible to guarantee 100 per cent compliance with any tax that is levied by any government. It is expected, however, that compliance with the proposed payroll tax will be higher than, for example, income tax. In practice, therefore, there may be tax owing to the Government which is unrecoverable or it may not be financially feasible to pursue the employer for tax owing.

14) *What is the criteria for determining qualifying remuneration paid for work or duties performed and services provided in the Territories?*

The proposed payroll tax will be levied on all income from employment or the holding of an office, including all taxable benefits and allowances. The basis is the same as that used for income tax.

The base for the tax includes salaries, wages and the value of bonuses, taxable allowances, commissions and other similar amounts. In general, this includes any remuneration received from an employer which would be included as employment income for income tax purposes.

15) *Will the Office of the Auditor General's staff be taxed for work done in the NWT?*

16) *Will DIAND officials from Ottawa visiting Yellowknife to work be affected?*

17) *Will a CIBC bank auditor visiting Yellowknife to do an internal review be taxed?*

The payroll tax would apply in all of the cases cited. Where employees are based in the south and visit the Territories for a short period of time to perform duties, the tax will apply on the salary earned in the Territories. In the cases cited, the amount of tax involved will not be large. Decisions to spend resources on administration and enforcement in particular instances will take into account the amount and the potential for collection of tax owing. In cases where potential financial gain is small, it may not be beneficial to go to extreme lengths to collect a small amount of tax. The amount of tax lost as a result will not be large.

18) *Will foreign ships in NWT waters for fishing, scientific or other duties be taxed?*

Although it is the position of the Government of the Northwest Territories that Canadian offshore waters are part of the Northwest Territories, this position has never been tested in court. The tax would apply to workers on ships in Northwest Territories waters, subject to a possible challenge. We currently do not get fuel taxes or property taxes from most offshore activity.

19) ***Will Russian officials visiting and 'performing duties' in the Territories be taxed?***

In theory, Russian or other foreign officials would be subject to the tax. Some employees of foreign governments will be exempt from all tax by virtue of treaties signed by the federal government.

Although under the act, tax would be payable on such income, the amount involved would be small. We would advise employers of their responsibilities under the Act if such activity came to our attention. However, it is unlikely that we would pursue collection of the tax from employees outside Canada unless the payroll was significant.

20) ***How much new tax will be earned (i.e. What is the net annual proceeds after all costs)?***

Revenues from the payroll tax are forecast as follows:

PAYROLL TAX
All figures in thousands of dollars

IMPLEMENTATION JULY 1, 1993

	1992-93	1993-94	1994-95	1995-96
PAYROLL TAX		$8,200	$11,700	$11,900
ADMIN.		(322)	(222)	(222)
TOTAL		$7,878	$11,478	$11,678

The Cost of Living Tax Credit, also being proposed, will cost $5 million in 1994-95 and $10 million in 1995-96.

A supplementary appropriation for $155,000 in start-up funding for 1992-93 has been rejected by the Assembly. This will likely result in a three-month delay in the implementation date of the tax and will reduce the payroll tax revenue (net) to approximately $5,000,000 in 1993-94. In addition, the Cost of Living Tax Credit for 1994-95 will be reduced to $2.5 million.

21) ***How will the GNWT police out-of-territory employers (i.e. with only 3 employees for tax administration)?***

Several avenues exist which will assist the GNWT to collect the tax from out-of-territory employers. They include:

a) Information received from competitors or disgruntled employees.

b) Most southern firms with any business dealings in the NWT will eventually deal with the GNWT. Periodic comparisons of payroll tax information and GNWT vendor information will be conducted using computers to determine if any (northern or southern) companies are doing business in the NWT but not reporting payroll tax.

c) Compliance officers will review employers' accounts payable journals at audit time to determine if there are employers doing business in the NWT but not submitting payroll tax returns. It is often not necessary to perform expensive site audits of employers. Officers will be performing regular desk audits to determine if some employers are not submitting payroll tax returns.

d) Proposed legislation allows for the sharing of information with the Workers' Compensation Board (WCB). In most cases, it is in the employer's best interest to register with the WCB. If an employer is registered with the WCB and not with the payroll tax administration, this fact will be known.

To administer this tax with only 3 employees will only be possible by using the latest in computer technology.

22) ***Are penalties comparable to other payroll taxes?***

Penalties are comparable to GST legislation and are in line with the Ontario Employer Health Tax Act (a payroll tax on employers) and other payroll taxes on employers.

23) ***To what extent will an administrative burden be placed upon employers?***

Every effort is being made to limit the administrative burden on employers. Upon registration employers will submit the information needed to determine a remittance schedule. The information requested should already be readily available to most employers.

Remittance forms will be sent to employers just prior to the scheduled time for the remittance.

The remittance forms will only require that the employer enter the amount collected from employees and that a cheque be prepared.

The employer already has to prepare, for income tax purposes, the information required to determine payroll tax payable.

24) ***What will the cost be to employers?***

The costs should be minor because the information required is already required for income tax purposes. Employers should not incur any significant costs.

25) *Do computerized accounting software packages used in the NWT accommodate the tax (i.e. what are the implications)?*

Most computerized accounting software packages can accommodate this tax. In some cases some minor programming will be necessary.

26) *What are the record keeping implications for hamlets, housing associations, health and education boards, for example?*

Implications for hamlets, etc. are no different than for any other employer. Minor adjustments to accounting systems will have to be made.

27) *What are the record keeping implications for small organizations without computerized record keeping?*

Small organizations without computerized record keeping systems will only have to make one additional calculation and remit the amount deducted. The information necessary to make the calculation must be accumulated for income tax purposes.

28) *To what extent will the Department of Finance help organizations?*

A toll-free telephone line will be available for the use of organizations wishing responses to all questions relating to the Payroll Tax. Regional finance officers will have information on the tax and will assist employers wherever possible. In addition, and if requested by specific groups, the department will arrange to hold information seminars for interested employers.

Detailed information packages will be sent to all employers prior to implementation of the tax. Translation services can also be arranged on request.

29) *Will tax auditors have jurisdiction to review employers' records outside of the NWT?*

Proposed legislation provides the authority for the Minister of Finance to require employers to maintain payroll records in the NWT if any employer refuses to allow tax auditors to review records outside of the NWT.

30) *How will they police this?*

Should an extra-territorial employer refuse to comply, through the courts the GNWT can seize assets in the NWT and/or impose third party demands (garnishee payments from other companies to the extra-territorial employer).

31) ***Will they travel out of the NWT to enforce?***

In some cases it may be more expedient to travel out of the NWT to audit employers rather than impose the requirement on companies to maintain records in the NWT. Associated costs will be minimized by auditing as many extra- territorial companies as possible during any given field audit trip.

32) ***How many person-years are required***
(a) to administer?
(b) to audit?

(a) 2 PY's
(b) 1 PY

33) ***Are penalties comparable to other payroll taxes?***

Penalties are comparable to GST legislation and are in line with the Ontario Employer Health Tax Act (a payroll tax on employers) and other payroll taxes on employers.

34) ***What are the expected costs of enforcing offenses and punishment (i.e. legal costs, court costs, jail costs, etc.) - have these been taken into account?***

There will be additional demands placed on the Department of Justice and in extremely rare cases there may be jail costs. However, it is expected that the additional workload can be managed.

For the most part, as with income tax, fuel tax, tobacco tax and other tax collections, employers will comply rather than face the resulting bad publicity caused by court cases. Most non-compliance issues result from administrative errors. Direct evasion is mainly encountered in very limited circumstances where individuals can make substantial personal gains.

35) ***What training and support (eg. advisory, financial) will be provided to employers to help meet their obligations?***

As indicated in response to question 28, a toll-free telephone line will be available. Regional finance officers will have information on the tax and will assist employers wherever possible. In addition, and if requested by specific groups the department will arrange to hold information seminars for interested employers.

Detailed information packages will be sent to all employers prior to implementation of the tax. Translation services can also be arranged on request.

36) *Is the Payroll Tax not deductible for income tax purposes and the Tax Credit not taxable?*

The payroll tax is not deductible for income tax purposes. The tax credit is not taxable. Employers administrative costs are deductible as a business expense.

37) *What is the expected effect on northern and southern labour costs (i.e. any escalation to be expected)?*

It is not anticipated that the payroll tax will raise costs for northern employers hiring northern labour for two reasons. First, since the tax will be a tax on employees, employers will not face any direct payroll tax costs other than a small administrative one. Second, the burden of the payroll tax on employees will be offset to a large extent by the Cost of Living Tax Credit available to Northwest Territories taxfilers.

Labour costs for employers may rise if their employees work in the north but live in the south. The reason is that such employees would have to pay the payroll tax but would not be eligible for the tax credit. Employees may therefore attempt to bargain for higher wages to offset the payroll tax. These higher costs may create an incentive for employers to alter their hiring practices towards more northern labour, which will have a positive impact on northern employment. Indeed, as mentioned above, this is the one of the complementary objectives underlying the payroll tax.

38) *Is the government planning to increase the Payroll Tax, once implemented, from 1%?*

There are no plans to increase the rate of the Payroll Tax.

39) *Are Workers' Compensation payments (that relate to lost employment income) subject to the payroll tax?*

Workers' Compensation payments are not considered employment earnings and are therefore exempt from the payroll tax.

APPENDIX 4

Northwest
Territories

FEB 0 1 1993

Mr. Jim Antoine
Chairman
Standing Committee on Finance
Government of the Northwest Territories
P. O. Box 1320
YELLOWKNIFE NT X1A 2L9

Dear Mr. Antoine:

Payroll Tax Act

Thank you for providing me with the opportunity to comment on the submissions that were sent to the Committee and on the report prepared for the Committee by Mr. Daye.

Many of the points that were brought to the Committee's attention are related to the administrative provisions of the Act, the administrative costs to businesses and the application of the Act to very short-term work performed in the Northwest Territories by non-residents. These comments were helpful and I have asked the Department of Finance to re-examine the Act to see to what degree these concerns can be alleviated. I would welcome specific suggested amendments from the Committee.

The more fundamental issue is whether the Government of the Northwest Territories wishes to pursue the policy objective of taxing temporary and non-resident workers. After years of study by previous Ministers of Finance and departmental officials, the Payroll Tax - Personal Income Tax Credit system was determined to be the only feasible method to meet this objective. All other approaches that we investigated would run afoul of the mobility provision in the Canadian Charter of Rights and Freedoms in that they could be deemed to be laws or practices of general application "...that discriminate among persons primarily on the basis of province of present or previous residence;..." (S.6, Constitution Act 1982). Unless members of the Committee can identify alternate methods, rejecting the proposed legislation would result in effectively abandoning the policy objective that caused the Act to be introduced.

[illegible] Telex 034-45538

A second fundamental issue must also be addressed. In its present form, the Payroll Tax - Personal Income Tax Credit system is also designed to increase government revenues. This does not result from the imperfect matching of the tax to the credit but from a deliberate decision by Cabinet to introduce a modest increase in tax revenues. All other tax alternatives, such as a further increase in the Personal Income or Corporate Tax rates, in fuel tax rates, and the introduction of a GST-type sales tax, were considered. Withdrawal of the proposal currently before the Committee would necessitate compensating increases in other taxes such as corporate or personal income tax which are not likely to receive any more positive public support than a payroll tax.

Attached is a document prepared by the Department of Finance which specifically comments on the points raised in the submissions made to the Committee. Points raised in the Union of Northern Workers' submission, which was received late, will be provided at a later date.

Sincerely,

John D. Pollard

Attachment

Responses to comments made in submissions to the Standing Committee on Finance on the Payroll Tax Act.

PREPARED BY: FISCAL POLICY DIVISION
DATE: 29 JANUARY 1993

COMMENT ***The administrative costs of the tax (both to the Government and to taxpayers) are high compared to the net revenue generated.***

RESPONSE The administrative costs are high relative to the net revenue, and would be unacceptably so if revenue were the only goal of the tax. There are many other tax options which would raise $1.6 million annually at much less administrative cost. However, the payroll tax is primarily intended to ensure that non-resident employees pay a part of the cost of government. The achievement of this goal, in addition to the net revenue to government, must be considered.

COMMENT ***The tax will be highly visible, which will promote a negative reaction from individuals. Because the credit is payable a year later on the income tax refund, it is not as visible and the political benefit may not go to the Northwest Territories government.***

RESPONSE Hidden taxes are generally not viewed favourably by consumers and business organizations. The payroll tax will be visible, but the fact that employees and employers are fully aware of the tax they pay should be viewed as an advantage.

The form for the credit will be part of the income tax return but it will be clearly identified as a Northwest Territories credit. Although it may not be visible as a Northwest Territories credit to those who do not complete their own tax returns, it is not possible to offer the credit any other way.

COMMENT ***Employees from outside the Northwest Territories will be required to pay the tax on their earnings when they are in the Northwest Territories. Their reaction will be negative. Their employers will face considerable additional administrative costs, and the revenue collected from these individuals will be small.***

RESPONSE The prime goal of the payroll tax was to ensure that non-residents who earn income in the Northwest Territories pay some tax here, although individuals who travel to the Northwest Territories from a base in southern Canada for a limited number of days are not as much of a concern as those who work here for long periods of time but reside in the south, such as employees at some mines.

It is important that legislation be seen as treating all non-resident employees equally. However, the intent is not to impose an unreasonable administrative burden on firms that send employees to the Northwest Territories for a short time. After we gain more experience, the act could be revised if the burden on these employers is unreasonable.

COMMENT *Taxpayers in similar situations will have different tax burdens, because the tax will not apply to self employment income or investment income.*

RESPONSE The department looked at taxing other forms of income, but these options were rejected because of the large additional administrative burden it would place on taxpayers. The additional revenue from taxing business income would be only a few hundred thousand dollars.

COMMENT *Priests and other members of religious orders who have taken vows of poverty will be subject to the payroll tax although they do not pay income tax.*

RESPONSE These people will still be entitled to the cost of living tax credit, which in most cases will be more than the payroll tax paid.

COMMENT *Ministers and pastors receive a deduction for housing benefits under the Income Tax Act, but will not under the payroll tax.*

RESPONSE The payroll tax has been kept simple by not duplicating the many deductions available under the Income Tax Act. There are many other deductions available under the Income Tax Act, such as the northern housing and travel deduction, child care, pension contributions, RRSPs, and union dues, which are not repeated under the payroll tax.

Allowing a deduction for housing for ministers and pastors would be possible, but would likely result in requests for other deductions from other groups. Some ministers may pay more in payroll tax then they received from the credit.

COMMENT *The payroll tax and tax credit are not perfectly matched, resulting in some people getting a significant benefit, while others pay more tax than they will receive from the credit.*

RESPONSE In part, this mis-match was intentional, to provide a slightly higher benefit to low income individuals.

Although perfect matching of the credit and tax may be desirable to some, this is not possible given the constraints on the government:

a) A tax on only non-residents or a credit which refunded the exact amount of the tax to residents would likely be ruled unconstitutional, if challenged.

b) The federal government would not administer the tax credit for us if it matched the tax exactly.

c) Although in theory the Northwest Territories government could administer a credit itself, in practice this would cost much more than federal administration and it would then not be possible to restrict the credit to individuals who had filed Northwest Territories income tax returns, because the Government of the Northwest Territories does not have immediate access to income tax records.

COMMENT ***There are a number of cases where the calculation of the tax to be paid by a southern based employee who travels to the Northwest Territories is unclear. For example, how is the tax calculated for an employee who earns $50,000 a year and spends 3 days in the Northwest Territories?***

RESPONSE As previously indicated, the matter of charging tax to southern based individuals will be reviewed. In practice, however, the department of Finance will accept any reasonable calculation of the tax in such cases. Since the tax to be paid by a southern based employee earning $50,000 a year would amount to less than $2.00 a day, different calculation methods for the tax would only make a difference of a few cents.

COMMENT ***The definition of "person" makes no reference to "trust" or "joint venture".***

RESPONSE According to the department of Justice, no such reference is needed because the trustee of a trust would be included as either an individual or corporation, and a joint venture would be included either as a partnership, or by virtue of its constituent members being included in the definition.

COMMENT ***In the definition of employer, government is defined as including the governments of a province, territory, or Canada. Municipal governments are not mentioned.***

RESPONSE Municipal governments are corporations, and as such are included, although not specifically. No change is required.

COMMENT *Although the employee is the taxpayer, and under the Act has the right to appeal, the tax is administrated by the employer. It is possible that an employee could be reassessed and not receive notice of the reassessment. In theory, since the employee can appeal a reassessment within 90 days of becoming aware of it, the appeal period could be extended indefinitely if the taxpayer is not notified.*

RESPONSE The Act provides that the employer must advise employees immediately on being advised of a reassessment. The department will look at this section to determine if amendments are necessary.

COMMENT *The tax should be changed to make the employer, not the employee, the taxpayer.*

RESPONSE Such a change would make administration of the tax easier. However, it would create several problems:

The purpose of the tax is to ensure that non-resident employees would pay some tax to the Government of the Northwest Territories. If the tax is levied on employers, this objective would not be met.

The largest employer in the Northwest Territories is the territorial government. A shift in burden to employers would reduce the revenues by more than $3 million, although government employees would still get the credit, unless it too were modified or eliminated.

COMMENT *The tax credit could be unconstitutional.*

RESPONSE It is the opinion of our Department of Justice that the credit as structured would not be unconstitutional.

COMMENT *Expenditures should be cut instead of increasing taxes.*

RESPONSE The government has made significant progress in reducing expenditures over the past two years. There is still a requirement to increase taxes to finance uncontrollable increases in the cost of essential programs.

COMMENT *Some computer programs will not be able to handle the tax.*

RESPONSE Most computerized accounting software packages can accommodate this tax. In some cases some minor programming will be necessary.

COMMENT *There has not been enough information about the tax.*

RESPONSE The Department of Finance did not go out and inform the public about the payroll tax because the Standing Committee of Finance announced that it would be conducting public inquiries concerning the tax.

COMMENT *The legislation does not include the proposed cost of living tax credit.*

RESPONSE Legislation to implement the cost of living tax credit will be introduced in this session when the government has assurance that the Payroll Tax is passed.

COMMENT *Business should be paid a fee to collect the tax.*

RESPONSE Most taxes which are collected by business (personal income tax, fuel tax, GST) do not have fees for collection.

COMMENT *There should be a determination of the costs to business of collecting the tax.*

RESPONSE Because the tax is simple, it is not anticipated that costs to Northwest Territories businesses will be significant. Where possible steps have been taken to minimize costs to business.

COMMENT *There should be a complete economic analysis done of the effect of the tax.*

RESPONSE The vast majority of Northwest Territories taxpayers will not pay any more tax after the credit is taken into account. Although southern residents will pay more, any reduction in their spending will not affect northern business. It is recognized that the timing of payments and refunds will change the pattern of consumer expenditures, but this effect is not expected to be significant.

COMMENT *Low income earners will be hard hit because there is no exemption.*

RESPONSE Most low income earners will be better off after the credit is taken into account.

COMMENT *The tax will be passed back to employers through higher wage demands.*

RESPONSE Because the effect on Northwest Territories residents will be small after the credit, it is not anticipated that wage demands will be affected. If southern employees ask for more because they do not get the credit, this will increase the incentive for business to hire northerners.

COMMENT *The tax will be difficult to enforce against southern employers.*

RESPONSE Several avenues exist which will assist the GNWT to collect the tax from out-of-territory employers. They include:

a) Information received from competitors or disgruntled employees.

b) Most southern firms with any business dealings in the NWT will eventually deal with the GNWT. Periodic comparisons of payroll tax information and GNWT vendor information will be conducted using computers to determine if any (northern or southern) companies are doing business in the NWT but not reporting payroll tax.

c) Compliance officers will review employers' accounts payable journals at audit time to determine if there are employers doing business in the NWT but not submitting payroll tax returns. It is often not necessary to perform expensive site audits of employers. Officers will be performing regular desk audits to determine if some employers are not submitting payroll tax returns.

d) Proposed legislation allows for the sharing of information with the Workers' Compensation Board (WCB). In most cases, it is in the employer's best interest to register with the WCB. If an employer is registered with the WCB and not with the payroll tax administration, this fact will be known.

To administer this tax with only 3 employees will only be possible by using the latest in computer technology.

Proposed legislation provides the authority for the Minister of Finance to require employers to maintain payroll records in the NWT if any employer refuses to allow tax auditors to review records outside of the NWT.

Should an extra-territorial employer refuse to comply, through the courts the GNWT can seize assets in the NWT and/or impose third party demands (garnishee payments from other companies to the extra-territorial employer).

COMMENT *The deeming feature of the act which could be used to deem employees of southern subcontractors to be employees of the northern customer of the subcontractor, will be difficult to administer.*

RESPONSE These provisions would be applied only in cases where the subcontractor is not registered for the tax, to ensure that non-resident employers are not used to avoid the tax.